



**CITY OF
TUMWATER
CITY COUNCIL
MEETING AGENDA**

**Online via Zoom and In Person at
Tumwater City Hall, Council Chambers,
555 Israel Rd. SW, Tumwater, WA 98501**

**Tuesday, July 18, 2023
7:00 PM**

- 1. Call to Order**
- 2. Roll Call**
- 3. Flag Salute**
- 4. Special Items:**
 - a. Monarch Children's Justice and Advocacy Center Update by Sue Villa, Jody Hawthorne, and Astro
 - b. Proclamation: Senior Services for South Sound, July 2023
- 5. Public Comment:** (for discussion of items not having a public hearing on tonight's agenda)
- 6. Consent Calendar:**
 - a. Approval of Minutes: City Council, June 6, 2023
 - b. Approval of Minutes: City Council Worksession, June 13, 2023
 - c. Approval of Minutes: City Council Worksession, June 27, 2023
 - d. Payment of Vouchers (Shelly Carter)
 - e. Grant Amendment #3 for Bush Prairie Habitat Conservation Plan Phase 2 (Brad Medrud)
 - f. Local Agency Agreement Supplement and Prospectus with WSDOT for the Israel Road and Linderson Way Pedestrian and Bicycle Improvements (Mary Heather Ames)
 - g. Local Agency Agreement and Prospectus with WSDOT for the Percival Creek Fish Passage Barrier Removal Project (Mary Heather Ames)
 - h. Local Agency Agreement and Prospectus with WSDOT for the Traffic Signal Controller and Detection Upgrade (Mary Heather Ames)
 - i. Service Provider Agreement Amendment Two for Tree and Vegetation Preservation Code Update (Brad Medrud)
 - j. Interagency Reimbursement Agreement IAA24138 Between Washington State Administrative Office of the Courts and City of Tumwater (Lisa Parks)
 - k. Deed of Easement for Slope Easement with Robert J. Scheller (Bill Lindauer)
- 7. Council Considerations:**

- [a.](#) Interlocal Agreement with Housing Authority of Thurston County for Affordable Senior Housing (Brad Medrud)

8. Committee Reports

- a. Public Health and Safety Committee (Leatta Dahlhoff)
- b. General Government Committee (Michael Althausen)
- c. Public Works Committee (Eileen Swarthout)
- d. Budget and Finance Committee (Debbie Sullivan)

9. Mayor/City Administrator's Report

10. Councilmember Reports

11. Any Other Business

12. Adjourn

Hybrid Meeting Information

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Public and Written Comment

Attend in person to give public comment or register by 6:45 p.m. the day of the meeting to provide public comment using the web-based meeting platform:

https://us02web.zoom.us/webinar/register/WN_kH2G0dcnS9--ik1UxRYypw

After registering, you will receive a confirmation email with a login to join the online meeting.

As an alternative, prior to the meeting, the public may submit comments by sending an email to , no later than 5:00 p.m. on the day of the meeting. Comments are submitted directly to the Mayor and City Councilmembers and will not be read individually into the record of the meeting.

Post Meeting

Video recording of this meeting will be available within 24 hours of the meeting.

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Accommodations

The City of Tumwater takes pride in ensuring that people with disabilities are able to take part in, and benefit from, the range of public programs, services, and activities offered by the City. To request an accommodation or alternate format of communication, please contact the City Clerk by calling (360) 252-5488 or email CityClerk@ci.tumwater.wa.us. For vision or hearing impaired services, please contact the Washington State Relay Services at 7-1-1 or 1-(800)-833-6384. To contact the City's ADA Coordinator directly, call (360) 754-4128 or email ADACoordinator@ci.tumwater.wa.us

Proclamation

WHEREAS, the City of Tumwater recognizes seniors as a large and fast-growing segment of our community and honors their role as leaders, parents, grandparents and elders of all types; and

WHEREAS, Senior Services for South Sound was founded in 1973 by a forward-thinking group of community leaders for the purpose of helping seniors thrive; and

WHEREAS, Senior Services for South Sound has a mission to improve the quality of life for people as they age and has grown to serve seniors all over Tumwater, Thurston County and Mason County; and

WHEREAS, Senior Services for South Sound now serves thousands of seniors each year with nutrition, transportation, trips and tours, fitness, recreation, support groups, housing and day care for those with disabilities; and

WHEREAS, the City of Tumwater enjoys a strong and growing partnership with Senior Services for South Sound to serve our seniors; and

WHEREAS, Senior Services is celebrating their 50th Anniversary in 2023.

NOW THEREFORE, I, Debbie Sullivan, Mayor of the City of Tumwater, do hereby proclaim

Senior Services for South Sound 50th Anniversary in 2023

and I encourage people to acknowledge the contributions Senior Services for South Sound provides to our community and honor the vital contributions that seniors provide to our society through volunteer work, mentorship, and civic engagement.

Signed in the City of Tumwater, Washington, and recognized on this 18th day of July in the year, two thousand twenty-three.




Debbie Sullivan
Mayor

**TUMWATER CITY COUNCIL MEETING
MINUTES OF HYBRID MEETING
June 6, 2023 Page 1**

CONVENE: 7:00 p.m.

PRESENT: Mayor Debbie Sullivan and Councilmembers Peter Agabi, Michael Althausen, Joan Cathey, Leatta Dahlhoff, Angela Jefferson, Charlie Schneider, and Eileen Swarthout.

Staff: City Administrator John Doan, City Attorney Karen Kirkpatrick, Community Development Director Michael Matlock, Parks and Recreation Director Chuck Denney, Transportation & Engineering Director Brandon Hicks, Water Resources and Sustainability Director Dan Smith, Assistant Transportation and Engineering Director Mary Heather Ames, Engineering Services Manager Bill Lindauer, Golf Operations Supervisor Russ Olsen, and City Clerk Melody Valiant.

SPECIAL ITEMS:

**PROCLAMATION:
JUNETEENTH -
JUNE 19, 2023:** Councilmember Jefferson read a proclamation declaring *Juneteenth on June 19, 2023*. The proclamation calls on the people of Tumwater to join together on Juneteenth, to reflect on the past, to commit together to continue to eradicate systemic racism, to look to the future, and to work each day to lift each other up for collective prosperity and liberty.

Mayor Sullivan presented the proclamation to Lester Dixon and Melvin Butler representing Fred U. Harris Lodge #70. They invited all community members to attend a community event on Saturday, June 17, 2023 from 11:30 a.m. to 4:00 p.m., at the Regional Athletic Complex (RAC) in Lacey to celebrate this African American cultural tradition with music, BBQ, and activities in a community-wide celebration of Juneteenth. Participants are encouraged to bring a non-perishable food item for donation to the Thurston County Food Bank.

**PROCLAMATION
LGBTQIA2S+
COMMUNITY
PRIDE MONTH
JUNE 2023:** Councilmember Dahlhoff read a proclamation recognizing *June 2023 as LGBTQIA2S+ Community Pride Month*. The proclamation urges all people of the City of Tumwater to join in celebrating diversity, promoting inclusion and equal protection under the law, and to join in the elimination of discriminatory policies and practices toward any culture, race, or group.

Mayor Sullivan presented the proclamation to a representative from Capital City Pride, who invited everyone to attend and participate in the July 1, 2023 Gay Pride Parade beginning at 10:30 a.m. from the grounds of Capitol Campus to the Port of Olympia Plaza.

**PUBLIC
COMMENT:** **Dave Nicandri, 505 4th Avenue SW, Tumwater**, referred to his recent inquiry about the City's policies and posture pertaining to the recent Berkley decision issued by the Ninth Circuit Court of Appeals and information from the City pertaining to the potential banning of future

TUMWATER CITY COUNCIL MEETING**MINUTES OF HYBRID MEETING****June 6, 2023 Page 2**

natural gas connections or other transitional elements in the Thurston County Climate Action Plan. He cited the responsiveness of Communications Manager Ann Cook for providing the City's information to him, as well as the responsiveness of Sustainability Coordinator Alyssa Jones Wood. In Manager Cook advised him of the State Building Code Council's action to create an advisory group to consider stakeholder proposals modifying sections within the commercial and residential energy codes because of the legal uncertainty stemming from the recent decision of the California Restaurant Association and the City of Berkley in the Ninth Circuit Court of Appeals. He clarified that he is not a climate change denier or a global warming denier. He authored a book on climate change titled *Voyaging to the Icy Latitudes*. However, he is a skeptic of some supposed climate change solutions, which he believes are ill advised. His particular question is whether there is an opportunity for the City to designate a citizen to participate as a stakeholder to consider proposals or whether the State Building Code Council staff can compile the proposals for consideration at a later date. He requested notification of any briefings of any subcommittees or the Council. He finds it interesting that the Boise Decision from the Ninth Circuit Court of Appeals was considered dispositive and guides all municipal regulations for occupation of public spaces. However, the Berkley Decision by the same court is legally uncertain, which he finds an interesting double standard and would like clarification as to why one ruling from the Ninth Circuit Court of Appeals was deemed as guiding policy for implementation and another is under study and review. That situation is an interesting anomaly. He conveyed appreciation for the Council's time and attention and plans to discuss the issue further at future meetings and with the City's legal department.

**CONSENT
CALENDAR:**

- a. Approval of Minutes: City Council Worksession, May 9, 2023
- b. Approval of Minutes: City Council, May 16, 2023
- c. Approval of Minutes: City Council Worksession, May 23, 2023
- d. Payment of Vouchers
- e. Grant Agreement with the Department of Natural Resources for Community Forestry Assistance
- f. Reappointment of Rado Shane Harrington to the Board of Parks and Recreation Commissioners
- g. Thunder in the Valley 4th of July Fireworks Display Permit

MOTION:

Councilmember Dahlhoff moved, seconded by Councilmember Swarthout, to approve the consent calendar as published. Motion carried unanimously.

Mayor Sullivan reviewed the items approved on the consent calendar.

**TUMWATER CITY COUNCIL MEETING
MINUTES OF HYBRID MEETING
June 6, 2023 Page 3**

**PUBLIC
HEARINGS:**

**RESOLUTION NO.
R2023-008 SIX-
YEAR
TRANSPORTATION
IMPROVEMENT
PROGRAM:**

Assistant Director Ames reported the City's Six-Year Transportation Improvement Program (TIP) for 2024 – 2029 serves as the foundation for transportation funding within the state. Each city prepares a TIP for submittal to its local planning organization. For Thurston County, Thurston Regional Planning Council (TRPC) serves as the region's local planning organization. TRPC submits local TIPs to the state to form the State Transportation Improvement Program (STIP). The City's TIP is an intentional comprehensive list of transportation projects to ensure the City's is positioned to apply for different grants. Changes to the TIP are in three main categories of removals, modifications, and additions. The Tumwater Town Center Connector Road project has been removed, as the location has changed. Projects in progress have had funding amounts adjusted accordingly. A new project, Trospen Road, Littlerock Road to I-5 has been added. The project is a new project for planning and preliminary engineering components to address capacity and safety issues in the area. Another project, the E Street Connection project was included. Funding has not been secured for the project; however, including the project on the TIP affords an opportunity for staff to seek grants.

The City is continuing the Pavement Maintenance Program, which is funded primarily by the Transportation Benefit District. The substantial project improves quality of life for users of the City's transportation network.

The Percival Creek Fish Passage Barrier Removal project was added to the current 2023-2028 TIP during an amendment process earlier in the year and has been carried forward into the next year's TIP because construction is scheduled in 2024.

This year the TIP totals \$35 million in grant funding with over \$50 million in local funds for a total of approximately \$90 million. The TIP is not financially constrained and projects are included to enable the City to apply for funding.

Assistant Director Ames requested the Council, following the public hearing, approve Resolution No. R2023-008 adopting the City's Six-Year Transportation Improvement Program for 2024 – 2029.

Councilmember Jefferson thanked and acknowledged the Transportation and Engineering team for their efforts to secure grant funding for City projects.

**TUMWATER CITY COUNCIL MEETING
MINUTES OF HYBRID MEETING
June 6, 2023 Page 4**

Councilmember Cathey requested an update on the progress for improving routes to schools. Assistant Director Ames replied that the City anticipates receiving a grant award in the next several weeks for a Safe Routes to School grant for a project at Second Avenue and Linwood Avenue to improve the route for students who walk or bike to school.

Mayor Sullivan opened the public hearing at 7:28 p.m. There was no public testimony. Mayor Sullivan closed the public hearing at 7:29 p.m.

MOTION:

Councilmember Swarthout moved, seconded by Councilmember Althausser, to approve Resolution No. R2023-008 adopting the City's Six-Year Transportation Improvement Program for 2024 – 2029.

**THIRD
AMENDMENT TO
DEVELOPMENT
AGREEMENT
BETWEEN THE
CITY OF
TUMWATER AND
THE CRAFT
DISTRICT:**

Director Hicks reported the proposal is the third amendment to the Craft District Development Agreement.

The Craft District Development Agreement is for a 5.58-acre site located off Capitol Boulevard near E Street and Tumwater Valley Drive. The anchor for the site is the South Puget Sound Community College (SPSCC) Craft Brewing and Distilling Program. The identity of the Craft District is centered on craft brewing, distilling, cider making, restaurants, retail, office space, event space, and a 1,000-person amphitheater.

Progress to date includes completion of the SPSCC facility housing Heritage Distillery and Percival Creek Brewing (SPSCC's private brand) and improvements to the roadway with a new median and intersection improvements. The signalized component of the intersection has not been completed and is scheduled for completion prior to the opening of the Market Building. The Market Building will open in phases with the first three tenants moving to the building in late August followed by other tenants in late September. Tenants include Finnriver Cidery, SPSCC's Percival Creek Brewing, Sweetlee's Ice Cream, Olympia Seafood, Left Bank Pastry, Don Juan's Mexican Kitchen, Pattaya Thai, and Julie Klueh Art. Food trucks will also be on site when the Market Building opens. The first event at the amphitheater is tentatively scheduled in September. The residential project on a parcel located south of the commercial portion of the Craft District is on hold pending market conditions.

The City's participation in the Development Agreement promotes social and economic benefits for the City, such as jobs, tax revenue, and the creation of energy for redevelopment of the historical brewery properties. The site serves as a destination for many visitors outside the region, as well as benefitting local residents and businesses. The agreement is based on a cost-share arrangement for infrastructure improvements required for the development and for improvements that have been included in prior City plans. Infrastructure under construction through the Development Agreement was planned by the City previously. Collaborating with the

**TUMWATER CITY COUNCIL MEETING
MINUTES OF HYBRID MEETING
June 6, 2023 Page 5**

developer affords the opportunity for the City to receive some infrastructure improvements sooner. Some City plans guiding future improvements in the area are the Brewery District Plan, E Street Corridor Study, and the Comprehensive Water System Plan.

Director Hicks reviewed prior amendments to the Development Agreement. The first amendment was an extension of the term due to market conditions influenced largely by the COVID-19 pandemic. The second amendment was a wholesale scope change adding a new parcel for residential uses, specifying when infrastructure is to be completed, underground conversion requirements, and construction of the trail. The third proposed amendment is an extension of the term to December 31, 2025.

Additionally, staff is working on two additional agreements separate from the Development Agreement for a shared parking agreement and an amphitheater agreement.

Staff recommends that, pursuant to testimony at the public hearing, the City Council approve Resolution No. R2023-010 and authorize the Mayor to sign the Third Amendment to the Development Agreement with the Craft District LLC.

Director Hicks clarified that the information included in the agenda packet was inaccurate and should reflect a contract extension to December 31, 2025.

Councilmember Jefferson requested information on the timeline for completion of the project. Director Hicks said the timeline has become a moving target because of market conditions and timing associated with lenders willing to loan for commercial and retail projects.

Councilmember Althaus asked whether road improvements would be delayed until development of Lot 4 is completed. Director Hicks explained that the issue is complicated as the Development Agreement is structured to prohibit other construction on the commercial or residential property until road improvements are completed. The residential property (Lot 4) was the best funding mechanism available for the developer to obtain a loan. However, the developer cannot develop any remaining property until road improvements are completed.

Mayor Sullivan opened the public hearing at 7:43 p.m.

**PUBLIC
TESTIMONY:**

Dave Nicandri, 505 4th Avenue SW, Tumwater, commented that the project is generating much community interest. He drives by the site each day. He complimented all staff who are involved in the project as the site

TUMWATER CITY COUNCIL MEETING
MINUTES OF HYBRID MEETING
June 6, 2023 Page 6

will go a long way towards knitting the community together and creating a commercial district in that area of Tumwater.

Mayor Sullivan closed the public hearing at 7:44 p.m.

MOTION:

Councilmember Dahlhoff moved, seconded by Councilmember Swarthout, to approve Resolution No. R2023-010 and authorize the Mayor to sign the First Amendment to the Development Agreement with the Craft District LLC (District). Motion carried unanimously.

**COUNCIL
CONSIDERATIONS:**

**RESOLUTION NO.
R2023-009, GOLF
CART LEASE:**

Director Denney reported the request is to adopt Resolution No. R2023-009, authorizing the Mayor to sign a new lease for golf carts at the Tumwater Valley Golf Course. Director Denney introduced Golf Operations Supervisor Russ Olson to provide an update on the status of operations, expenses, and revenue for the golf course.

Supervisor Olsen highlighted some of the activities sponsored at the Tumwater Valley Golf Course. Each year, the golf season kicks off with the annual OBee Junior Open Tournament. The tournament includes divisions for each level of skill beginning from ages 5 to 7 years to championship divisions. The event attracted 94 youths. The golf course recently hosted the WIAA High School District/State Championship. The golf course hosts the Tumwater Chamber Golf Tournament and the City's July 4th Festival and Fireworks Show, as well as the City's Screen on the Green and the annual Brewfest.

Partnerships are critical to the operation of a community-based golf course. The First Tee Program is hosted at the golf course. Supervisor Olsen said he taught the first class with four youths during a rainy day in November eight years ago. Last year, the golf course hosted over 438 youths in the First Tee Program. No youths are turned away as scholarships are available to help offset fees.

The golf course has a unique relationship with Titleist with the course continuing to be the number one public daily fee revenue producer for Titleist north of San Francisco. The relationship offers a financial benefit for the golf course. Not only does the course collect revenue sales during the bundling of golf balls with greens fee, the course also receives a rebate of over \$35,000 from Titleist to enable the course to purchase range balls at no cost. Titleist affords the golf course priority buying and purchasing by securing products at a lower cost than discount golf stores.

A new program initiated at the golf course is the addition of PGA supported Operations 36. The program affords the course the ability to

TUMWATER CITY COUNCIL MEETING
MINUTES OF HYBRID MEETING
June 6, 2023 Page 7

transition juniors and those new to golfing from the driving range to the golf course through modified tee distances ranging from 25 to 150 yards. Nine students registered for the class last semester.

Tumwater Valley Golf Course is hosting the South Puget Sound Clippers Men's and Women's Golf Team. South Puget Sound has never had a golf team in its history.

Director Denney displayed a chart reflecting revenues and expenses since 1996 when the City purchased the golf course from Pabst Brewery. The course changed its management style approximately 10 years ago to a different structure. The golf course had been following the PGA structure for 15 years. In 2009, the golf course lost revenue as the economy struggled. Following some personnel changes and adding some golf professionals, the new management style is geared for a community golf course. The golf course strives to meet expenses with revenue, which had been difficult; however, the outcome has improved to the extent that the cost of operating the golf course is at the same cost typical to operate a City park. The course continues to provide the ability to offer low rates to golfers. The course is always full with the major issue the lack of parking, which is detrimental to the course and to the restaurant. The City is working on a new parking alignment and improved stormwater treatment generated from the parking lot.

In 2022, the golf course generated \$1,364,000 with expenses approximately \$2,072,000. Expenses in 2022 increased because of the increase in the cost of supplies, equipment, fertilizer, and repairs totaling over \$200,000 more than anticipated. In 2022, rates increased by 5%. However, costs continued to exceed revenue. In 2023, rates were increased by an average of 15% to cover the cost of expenses.

Director Denney reviewed revenues generated from 2021 through 2023. The course continues to exceed historical revenue in major areas encompassing green fees, cart fees, memberships, and driving range fees. The golf course is improving the driving range with some of the costs covered from the annual Brewfest profits. Golf revenue overall increased \$105,000 from 2022 in addition to other categories through the efforts and good work by golf course staff.

The City typically leases golf carts every five years of a fleet of 50 to 60 electric golf carts. The City leases the carts from PNC Bank, National Association. During the pandemic, it was difficult to lease carts because of supply issues. The contract process was initiated last year for carts, but was deferred when the City was informed carts would not be available. Recent information indicates a supply of carts will become available within the next several months. At this time, maintenance of the carts has exceeded the cost of a new fleet. The proposed lease is for

TUMWATER CITY COUNCIL MEETING
MINUTES OF HYBRID MEETING
June 6, 2023 Page 8

five years totaling \$712,000 or \$142,000 a year. Last year, cart rental produced nearly \$200,000 in revenue. The carts are equipped with a GPS screen identifying the entire golf course and all other carts available in the pro shop. The new equipment enables the Pro Shop to shut carts down, message people directly about specific actions, and program carts not to drive to the parking lot.

Staff requests the Council's adoption of Resolution No. R2023-009 and authorize the Mayor to sign the lease.

Councilmember Cathey conveyed gratitude to the Council for supporting the golf course during some difficult years. She is heartened by the good news, as well as the benefits provided to youths through the First Tee Program. The golf course has done a wonderful job of supporting youth in the community. She acknowledged the value of golf carts because they attract golfers to the course.

MOTION:

Councilmember Cathey moved, seconded by Councilmember Dahlhoff, to adopt Resolution No. R2023-009 authorizing the Mayor to sign a new lease for golf carts at the Tumwater Valley Golf Course. Motion carried unanimously.

**OFFSITE LEASE
WITH SOUTH
PUGET SOUND
COMMUNITY
COLLEGE:**

Director Smith reported the proposed offsite lease agreement with South Puget Sound Community College is to site new offices for the Water Resources Department for planning and programs. The move is prompted by the lack of capacity at City Hall. The Water Resources and Sustainability Department is adding a new position and Transportation and Engineering is adding two to three positions. Currently, telework is at capacity affording the ability to share workspaces to accommodate both telework employees and office staff.

The Council budgeted some limited funding for Transportation and Engineering to evaluate offsite options. As those discussions ensued, staff evaluated whether it was logical for Transportation and Engineering to separate teams to an offsite location. Staff determined Water Resources and Sustainability teams were much more flexible as the teams are smaller with minimal customer contact. Most contact is through virtual means.

Staff was able to identify an option located at Tumwater Town Center East meeting needs although a larger space that could accommodate growth in the team over the next 10 years. During a conversation between City Administrator Doan and representatives from SPSCC, he learned the college had some available space with more students participating virtually. Staff initiated conversations with SPSCC to consider Building 32, a former horticultural building comprised of two classrooms of approximately 2,400 square feet on the campus of SPSCC.

TUMWATER CITY COUNCIL MEETING
MINUTES OF HYBRID MEETING
June 6, 2023 Page 9

Director Smith described how the Utility Department has been housed at City Hall but has not been charged for the space. The proposed lease helps to correct the situation enabling office space for general fund department offices. Transportation and Engineering would gain staff-ready furnished workspaces as current staff occupies five cubicles and one office, which would be vacated and available immediately for Transportation and Engineering staff.

The move provides Transportation and Engineering and Water Resources with the capacity to expand over the next several years. The move increases parking and fleet parking capacity at City Hall. The proposal requires a budget amendment for costs for moving and new furniture of approximately \$150,000. Over the biennium, the cost total \$200,000 evenly divided by each utility for the lease agreement with a return of \$62,000 to the general fund.

Staff shared information with SPSCC about public career promotion at the college through workforce development and green jobs training. The City is working with the LOTT Clean Water Alliance and other jurisdictions to consider ways to promote green job training and opportunities. With Water Resources moving to the college campus, it would result in a connection to the mission of the college as well. The move would provide an opportunity for the City to expand on internships and mentorships for environmental science positions.

Director Smith described other benefits for the City, such as full-time security, dedicated fleet parking, electric vehicle charging partnership with SPSCC by pursuing financial opportunities to install EV chargers on the campus benefitting both the City and the campus, and continued expansion of the public agency partnership with SPSCC. The proposal is an all-inclusive lease rate structure with services benefitting the department. Tenant improvements are not included in the lease and would be the financial responsibility of the City.

The proposed lease is for a five-year renewable term. Staff anticipates a 10-year lease based on timing for the construction of the new Operations and Maintenance Facility. Over the five-year lease, the lease totals \$281,420.000 with an additional \$150,000 required for moving, tenant improvements, and furniture.

Director Smith described efforts to ensure connectivity with City Hall employees through ongoing coordination and collaboration, as well as exploring other opportunities.

Next steps based on approval of the lease include SPSCC representatives presenting the lease to its Board next week, and if approved, a July 1,

**TUMWATER CITY COUNCIL MEETING
MINUTES OF HYBRID MEETING
June 6, 2023 Page 10**

2023 lease execution date is planned to enable remodeling to occur. Staff has initiated conversations with an architectural company for remodeling the workspace.

Staff requests the Council approve and authorize the Mayor to sign a lease agreement with South Puget Sound Community College for new office space supporting Water Resources & Sustainability staff for a five (5) year term.

Councilmember Althaus commented on the review of the proposal by the General Government Committee. The list of pros and cons assisted the committee in evaluating both options. It became clear that the SPSCC represented the better option. He supports and endorses the proposal.

MOTION:

Councilmember Althaus moved, seconded by Councilmember Swarthout, to approve and authorize the Mayor to sign a lease agreement with South Puget Sound Community College for new office space supporting Water Resources & Sustainability staff for a five (5) year term.

Several Councilmembers offered comments in support of the proposal.

MOTION:

Motion carried unanimously.

**SERVICE
PROVIDER
AGREEMENT
WITH TCF
ARCHITECTURE,
PLLC, FOR THE
CITY OPERATIONS
AND
MAINTENANCE
FACILITY DESIGN:**

Manager Lindauer reported the proposal is a Service Provider Agreement with TCF Architecture, PLLC, for the City Operations and Maintenance Facility Design. The proposed agreement was reviewed by the Public Works Committee on April 20, 2023.

Currently, Operations and Maintenance staff are located in a separate building behind City Hall. Operations and Maintenance staff provide street and utility maintenance. The plan is to move staff to the new Operations and Maintenance Facility on the City's Trails End property located at the northwest corner of 79th Avenue and Trails End Drive. An adjacent parcel is designated for a neighborhood park. Another component of the project is the installation of a roundabout at the intersection of 79th Avenue and Old Highway 99 to improve safety and accommodate traffic volumes moving through the intersection after staff moves to the new facility.

In 2011, the City began its search for a new site for Public Works and the Parks and Recreation Department. In 2014, the City purchased the Trails End Arena comprised of two parcels located on the east and west side of Trails End Drive. In 2016, the City contracted with TCF Architecture to complete master planning and predesign based on proposed programming. Following those efforts, the building and site predesign was initiated to determine the number and size of buildings, necessary

TUMWATER CITY COUNCIL MEETING
MINUTES OF HYBRID MEETING
June 6, 2023 Page 11

site improvements, and offsite improvements. A community engagement component offered different venues to solicit feedback from the community. A cost estimate was developed for anticipated construction costs of the project. At that time, the cost estimate was too high, which required the City to downsize the project and limit the relocation to only Operations and Maintenance staff. Subsequent community engagement resulted in the relocation of the facility to the west of Trails End Drive and the park to the east of Trails End Drive.

Manager Lindauer shared an illustration of the facility totaling seven buildings with consideration of traffic circulation and reduction in the number of vehicles backing and maneuvering within the site to reduce noise to adjacent neighborhoods surrounding the site. The design includes a staff parking lot. Main access to the facility is from 79th Avenue with secondary access from Trails End Drive. The seven buildings range in various sizes and will house all programming components.

The feasibility and predesign was completed by TCF Architecture. Staff would like to continue the relationship because of the previous work completed and the company's knowledge and experience with the project. Staff and TCF Architecture developed the service provider agreement and scope of work. Because the project includes so much architectural work to design buildings and site placement, staff prepared an estimate of the design fees for the project using the Office of Financial Management (OFM) Guidelines. The Guidelines are used by the State of Washington to evaluate design fees for architectural projects. Design fees are in two categories of basic design fees and additional design fees for specialty items. Basic design fees are based on a percentage of the overall construction cost or the Maximum Allowable Construction Cost (MACC). The complexity of the project increases design efforts. The OFM Guidelines include tables and other information to identify the appropriate percentage. The project includes multiple buildings with different complexities, which was used to balance the different percentages to identify a basic design fee. Additional services are for specialty items for the project. The subconsultants provided their respective scopes and fees. The scope of work for the project is to provide a 100% plan and construction plans, specifications, and estimate for the project resulting in a construction-ready document. Some of the larger components include geotech, permitting, building design, civil design, structural engineering, water and sewer systems, and specialty items of acoustical, mechanical, electrical, plumbing, landscaping, and irrigation.

The consultant fee is \$2,450,000. Of that amount, the basic service fee totals \$1,628,834 with additional services totaling \$635,783. A management reserve of \$191,383 as a contingency is included for any design or construction complications during the project. Funding for the

**TUMWATER CITY COUNCIL MEETING
MINUTES OF HYBRID MEETING
June 6, 2023 Page 12**

project is allocated from Capital Facilities Plans (CFP) with 33% allocated from the General Government CFP, 33% from the Water Utility CFP, 17% from the Sewer Utility CFP, and 17% from Storm Drain CFP. The actual amounts will be adjusted based on actual construction bids.

Based on Council approval, staff anticipates providing notice to proceed in June with the consultant for completion of the construction documents for completion by May 2024.

Councilmember Cathey asked whether the City plans to improve Trails End Drive. Director Hicks advised that the segment included within the scope of the project site will be widened to a 36-foot wide road instead of 32 feet to accommodate parking on both sides of the street and to accommodate larger City operation vehicles. To the north where the street is currently constrained, the City will not improve that area, which is a 32-foot wide road. One reason is to slow down vehicles on local roads. City maintenance vehicles will not be allowed to drive north through the neighborhood unless performing service in the neighborhood.

Councilmember Cathey inquired about the potential use along the backside adjacent to the residential neighborhood. Manager Lindauer explained that the western area includes a stormwater facility and a landscape buffer along the north side of the property. Vehicles parked along the landscape buffer will not be operated on a daily basis. The northwest area includes storage for materials.

Councilmember Cathey asked whether the park site would include a parking lot. Director Hicks advised that the parking lot designated along the park side is not a parking lot for the park but serves as parking for the Operations and Maintenance Facility. Some parking capacity has been moved near the Administration Building that will provide parking for most employees; however, the site is also designated for future building expansion. Staff decreased building sizes to reduce costs. In the future, some buildings will be expanded toward the Administration Building in the area of the parking lot with all staff parking moved to the park side of the street at that time. Councilmember Cathey said the neighborhood has expressed concerns about the parking lot being used by park visitors. Director Hicks said the parking is only for City employees and would likely include gate access. The parking lot is not intended for park patrons.

Councilmember Cathey asked whether the proposed action on moving forward on design triggers an opportunity for the community to provide input. Director Hicks said the design concepts have incorporated all community feedback from prior community conversations. When design commences, the architects will begin with the basic concepts with some opportunities to engage with the Council and the public to provide

TUMWATER CITY COUNCIL MEETING
MINUTES OF HYBRID MEETING
June 6, 2023 Page 13

updates. The park design is a separate design completed by landscape architect.

MOTION: Councilmember Swarthout moved, seconded by Councilmember Jefferson, to approve and authorize the Mayor to sign the Service Provider Agreement with TCF Architecture, PLLC, for the City Operations and Maintenance Facility Design. Motion carried unanimously.

**COMMITTEE
REPORTS:**

PUBLIC HEALTH & SAFETY: The next meeting is scheduled on June 13, 2023 at 8 a.m. The agenda includes a briefing on Station T1 kitchen remodel and 2022 police data use of force.
Leatta Dahlhoff

GENERAL GOVERNMENT: The next meeting is scheduled on June 14, 2023 at 8 a.m. The agenda includes a briefing and discussion on progress on the Palermo Trail, Multifamily Housing Tax Exemption Program, Manufactured Home Park Tenant Protections, and Grant Amendment 3 to the Bush Prairie Habitat Conservation Plan for Phase 2.
Michael Althausen

PUBLIC WORKS: The next meeting is scheduled on June 8, 2023 at 8 a.m. The committee will consider and discuss the Israel Road and Linderson Way Water Main Project, Schedule 74 Project Plan and Schedule 74 Underground Conversion Construction Agreement and the Israel Road and Linderson Way Water Main Project, Authority to Solicit Bids and Recommend Award.
Eileen Swarthout

BUDGET AND FINANCE: There was no meeting and no report.
Debbie Sullivan

MAYOR/CITY ADMINISTRATOR'S REPORT: City Administrator Doan congratulated the Council for moving forward on several large City projects.

Mayor Sullivan attended the May 17, 2023 WSDOT Marvin Road to Mounts Road Executive Advisory Group meeting. The meeting is the final meeting of the group. The study has been released.

Mayor Sullivan attended the May 17, 2023 Thurston County Chamber of Commerce meeting and the Intercity Transit Authority meeting. On May 20, 2023 she attended the Tumwater Youth Football Party in the Park event to celebrate and wrap-up youth baseball leagues for the season. On May 23, 2023, she attended the Monarch Breakfast followed by an Association of Washington Cities (AWC) Diversity, Equity, Inclusion,

**TUMWATER CITY COUNCIL MEETING
MINUTES OF HYBRID MEETING
June 6, 2023 Page 14**

and Belonging Cabinet meeting on May 24, 2023. She also attended a meeting of the Community Action Council of Mason, Thurston County.

On May 25, 2023, Mayor Sullivan visited the Squaxin Island Tribe and participated in the signing of a Memorandum of Understanding with the tribe for a Council-Council agreement.

On May 29, 2023, Mayor Sullivan attended Memorial Day ceremonies at Capitol Campus to include the Vietnam Veterans event following the Memorial Day ceremonies. On May 20, 2023, she participated in the Joint Base Lewis McChord (JBLM) 17th Field Artillery Brigade Changing of Command. The brigade serves as the City's liaison company to the JBLM community. On May 31, 2023, Mayor Sullivan attended the Thurston Thrives Elected Officials Council breakfast.

Mayor Sullivan officially opened the Tumwater's Farmers Market on June 4, 2023.

Mayor Sullivan attended the Executive Seminar for Elected Officials with Councilmember Dahlhoff. Members reviewed personal preparedness, hazard response, and the Regional Hazard Mitigation Plan.

On June 10, 2023, *Dogs Days*, a new City event will be held at Pioneer Park.

**COUNCILMEMBER
REPORTS:**

Angela Jefferson:

At the May 17, 2023 Emergency Medical Services Council meeting, members discussed the Medic One Levy and the budget. There has been no significant change since the last report. However, management and all parties are discussing ways to resolve the levy accounting issue. Members discussed the hospital entryway delay fix comprised of two paramedics stationed at the entranceway of the hospital for the purpose of releasing Medic One paramedics and ambulances to the field faster. The program was successful. A contract is under development to create the program permanently. Members also reviewed the crisis level of healthcare delivery in Thurston County, which will require legislative action. The fentanyl crisis and increase in population has negatively affected healthcare delivery. Today, it is much more challenging to hire and retain healthcare professionals. The Thurston County Coroner is experiencing difficulty in hiring medical examiners to staff the office and clear the backlog of drug overdoses, which have exploded in Thurston County. As of August 30, 2022, no neurosurgeons will be available at St. Peter's Hospital because of contract negotiations. Stroke patients and head injury patients will need to be diverted to other hospitals in Tacoma

**TUMWATER CITY COUNCIL MEETING
MINUTES OF HYBRID MEETING
June 6, 2023 Page 15**

and it will directly impact the amount of EMTs and ambulances working in the field, as well as increase patient response time.

On May 18, Councilmember Jefferson attended the Law and Justice Council meeting. Members finalized and approved a mission statement and values and received a briefing on the new pretrial PSA Public Service Assessment Program. The program is unique as it predicts pretrial outcomes. Full implementation of the program is scheduled in late summer of 2023. Members discussed the Opioid Task Force update and legislation to address the Blake decision.

Joan Cathey: Councilmember Cathey attended the last meeting of the Regional Housing Council with Councilmember Althausen. She plans to attend the June 7, 2023 Solid Waste Advisory Committee meeting.

Charlie Schneider: There was no report.

Peter Agabi: There was no report.

Leatta Dahlhoff: Councilmember Dahlhoff reported she attended six intergovernmental meetings. During the Thurston Thrives meeting and references to Opioid Task Force and other organizations, members discussed establishing a youth council component. The City of Lacey has established a youth council and the City of Olympia is discussing the establishment of a youth council. The Tumwater City Council adopted a goal during the last budget cycle to discuss the option of establishing a youth council in Tumwater.

Michael Althausen: Members of the Regional Housing Council (RHC) focused on revisiting some of the recommendations for funding rendered at the prior meeting. One suggestion offered to the advisory board was to reconsider several of the funding recommendations the board referred to the Council. Members eventually finalized the recommendations and forwarded the recommendations to the County Commission for approval. Members discussed its annual work plan.

Eileen Swarthout: Councilmember Swarthout represented the City on May 29, 2023 during the Memorial Day Ceremony at the Odd Fellows Cemetery.

On June 2, 2023, Councilmember Swarthout attended the Thurston Regional Planning Council meeting. Members engaged in a first review of the carbon reduction program to reduce transmissions from highways and local streets, reviewed the Transit Study Performance Measure Targets, considered allocations of federal funds for the Rural Mobility program, and received an update on the Martin Way Corridor Study.

**TUMWATER CITY COUNCIL MEETING
MINUTES OF HYBRID MEETING
June 6, 2023 Page 16**

At the June 5, 2023 the Urban Growth Management Subcommittee meeting, members reviewed incorporating tribal coordination policies into Countywide Planning Policies. The measure will be returned to each jurisdiction's Community Development Director for input. The subcommittee postponed discussion on four requests from Thurston County properties for an urban growth boundary change pending additional information to be provided by Thurston County to assist the subcommittee. The City of Lacey also submitted a request to amend the urban growth boundary to accommodate plans for a project. The subcommittee approved the request.

Councilmember Swarthout is scheduled to speak at the opening of the June 17, 2023 Olympic Air Show on behalf of the City.

OTHER BUSINESS: Mayor Sullivan reported on the cancellation of the June 20, 2023 regular Council meeting because of the attendance of several Councilmembers to the annual AWC Conference. The July 4, 2023 regular Council meeting has also been canceled because of the July 4th festivities.

ADJOURNMENT: **With there being no further business, Mayor Sullivan adjourned the meeting at 9:11 p.m.**

Prepared by Valerie L. Gow, Recording Secretary/President
Puget Sound Meeting Services, psmsoly@earthlink.net

TUMWATER CITY COUNCIL WORKSESSION
MINUTES OF VIRTUAL MEETING
June 13, 2023 Page 1

CONVENE: 6:00 p.m.

PRESENT: Mayor Debbie Sullivan and Councilmembers Peter Agabi, Michael Althausen, Joan Cathey, Leatta Dahlhoff, Angela Jefferson, Charlie Schneider, and Eileen Swarthout.

Staff: City Administrator John Doan, City Attorney Karen Kirkpatrick, Community Development Director Michael Matlock, Finance Director Troy Niemeyer, Police Chief Jon Weiks, Water Resources and Sustainability Director Dan Smith, Communications Manager Ann Cook, Economic Development Manager Austin Ramirez, and City Clerk Melody Valiant.

Others: Kelsey Hulse, Strategies 360, and Tumwater City Administrator Successor Lisa Parks.

2023 LEGISLATIVE SESSION REPORT: Manager Ramirez recapped the outcome of Tumwater's 2023 Legislative Agenda and the region's Shared Legislative Agenda:

Tumwater's Legislative Agenda:

- Craft Brewing and Distilling | Integrated Malt System – Funded at \$255,000. The project will help fill some regional gaps in the brewing and distilling industry, as well as promote Tumwater's Craft District.
- Bush Prairie Economic Development (Habitat Conservation Plan [HCP]) – Requested \$4 million but not funded. The \$4 million request was a joint request between the City of Tumwater, Port of Olympia, and the City of Yelm. Manager Ramirez reported Ms. Hulse with Strategies 360 began working with the City on the request close to the beginning of the 2023 legislative session resulting in insufficient time to meet and discuss the funding request with legislators. Based on discussions with some legislators, the City will increase engagement with legislators before the next session because of the complexity of the project and the purpose of the funding request. Legislators requested identification of a specific property or a tangible asset as the explanations of purchasing some property for mitigation was not sufficient. It is important to clearly state the reason for the funding request, such as identifying a specific property. Additionally, it will be important to identify the purpose of the request as it can fall into areas of economic development, carbon sequestration, or mitigation for the protection of endangered species. Ms. Hulse noted that the request was a capital request that typically is for a capital project. It will be important to identify the right funding source, such as a capital request tied to a specific property or a programmatic request tied to the some of the benefits of the HCP. Manager Ramirez added that staff continues to seek all funding sources for the HCP. One feasible source is carbon sequestration funding as prairies have been

TUMWATER CITY COUNCIL WORKSESSION
MINUTES OF VIRTUAL MEETING
June 13, 2023 Page 2

identified as a carbon sink to varying degrees and have been included in programs for carbon credits on the carbon market.

Shared Legislative Agenda:

- Budd Inlet Remediation and Restoration – Funded at \$2.2 million
- Young Child & Family Center; North Thurston Public Schools – Funded at \$1 million

Ms. Hulse acknowledged the efforts of City Administrator Doan and Manager Ramirez during the legislative session to promote the City's legislative priorities. The team acknowledged the benefit of beginning earlier to promote legislative funding requests. When she began working with the City to assist with the legislative requests, state agency budget requests had been completed and the Governor had released the draft budget making it difficult for the City to position its legislative requests and engage with the Legislature when the budget development process was nearly completed. Next year's session is a short 60-day session and it is anticipated that many of the issues central to this year's session will be repeated next year involving climate, housing, and behavioral health. The next session will not include a new budget. The City anticipates focusing on funds that have been appropriated for greenhouse gas auctions as part of the Natural Climate Solutions Account and opportunities to engage with state agencies to identify possible interest in a prairie carbon sequestration project using agency funds previously appropriated.

Ms. Hulse added that political changes will be occurring in the state over the next several years with the election of a new Governor and other state agency positions. It will be important to contact new individuals who assume leadership positions to ensure they understand the priorities for the City of Tumwater.

Councilmember Swarthout thanked the team for their efforts and acknowledged the difficulty of navigating the capital budget process. Seeking funding earlier is also important. Representative Doglio expressed interest in the HCP and protecting the gophers, as she understands the importance of the project to the City of Tumwater as well as climate benefits through preservation of prairie land.

City Administrator Doan said he appreciated Ms. Hulse working with staff. She offered some creativity, energy, and different ways to frame the legislative requests. The HCP/gopher request is an unusual funding request and will require some creativity and much storytelling.

MAYOR/CITY
ADMINISTRATOR'S
REPORT:

City Administrator Doan reported the Council previously approved allocating \$275,000 of ARPA funds to the Thurston County Housing Authority project to convert the Tumwater Inn and Suites property to housing. The Housing Authority received notification of receiving more

**TUMWATER CITY COUNCIL WORKSESSION
MINUTES OF VIRTUAL MEETING
June 13, 2023 Page 3**

funds than requested from the Department of Commerce. Existing tenants located on the property will become displaced because of the project. The City has been asked to use the \$275,000 to pay for the relocation of tenants who meet eligibility requirements for relocation assistance. The Council supported the request to use the \$275,000 for relocation assistance for the Thurston County Housing Authority project.

Mayor Sullivan reported new City Administrator Lisa Parks is scheduled to join the City on Friday, June 16, 2023. The Council's regular meeting on June 20, 2023 has been cancelled as four members of the Council are attending the Association of Washington Cities conference in Spokane, Washington.

ADJOURNMENT: **With there being no further business, Mayor Sullivan adjourned the meeting at 6:20 p.m.**

Prepared by Valerie L. Gow, Recording Secretary/President
Puget Sound Meeting Services, psmsoly@earthlink.net

**TUMWATER CITY COUNCIL WORKSESSION
MINUTES OF VIRTUAL MEETING
June 27, 2023 Page 1**

CONVENE: 6:00 p.m.

PRESENT: Mayor Debbie Sullivan and Councilmembers Peter Agabi, Michael Althausen, Joan Cathey, Leatta Dahlhoff, Angela Jefferson, and Eileen Swarthout.

Excused: Councilmember Charlie Schneider.

Staff: City Administrator Lisa Parks, City Attorney Karen Kirkpatrick, Community Development Director Michael Matlock, Finance Director Troy Niemeyer, Police Chief Jon Weeks, Water Resources and Sustainability Director Dan Smith, Transportation and Engineering Director Brandon Hicks, Communications Manager Ann Cook, Engineering Services Manager Bill Lindauer, and City Clerk Melody Valiant.

Others: Deb Williams, Community Garden Coordinator, United Methodist Church.

**ISRAEL ROAD AND
LINDERSON WAY
WATER MAIN
PROJECT,
SCHEDULE 74
PROJECT PLAN
AND SCHEDULE 74
UNDERGROUND
CONVERSION
CONSTRUCTION
AGREEMENT WITH
PSE:**

Mayor Sullivan noted the agenda includes several action items because of the cancellation of the Council's July 4, 2023 meeting and the need to proceed with the projects.

Councilmember Cathey commented on the importance of ensuring future action items are not routinely scheduled during a worksession.

Manager Lindauer briefed the Council on the Israel Road and Linderson Way Water Main Project and Schedule 74 Project Plan and Construction Agreement. Schedule 74 establishes rules for converting existing Puget Sound Energy (PSE) overhead distribution system lines to underground within a project's limits. The proposed action is linked directly to the overall water main project. The project will underground 3,115 feet of overhead power lines within the limits of Linderson Way to Capitol Boulevard on Israel Road. The project includes service connection replacements to each affected property served by the distribution line. The PSE agreement consists of two linked agreements. The Schedule 74 Project Plan is the first agreement and includes all the main components of the project such as scope of work, construction plans and specifications, work requirements, operating rights, construction work schedule, and construction cost estimate. The second agreement is the construction agreement between the City of Tumwater and PSE. The construction agreement references the Schedule 74 Project Plan as an attachment.

PSE will provide the conduits and transformers for the project and will install the electrical system, coordinate and complete changeovers and transfers for new services, remove, deactivate, and replace the existing electrical system after the new system is installed, and provide project inspection services during the City's portion of the project when the City installs conduits and other components.

TUMWATER CITY COUNCIL WORKSESSION
MINUTES OF VIRTUAL MEETING
June 27, 2023 Page 2

The City's responsibility for the project is construction of the utility trench, installation of conduits (provided by PSE), and installation of service transformers. PSE will follow up and complete the connections.

The estimated cost of the project is a cost-sharing agreement of 60% by PSE and 40% by the City of Tumwater. The overall total construction cost for undergrounding is \$947,187.00. The City's cost share of \$378,875.00 is funded from the Transportation Capital Facilities Plan.

Manager Lindauer invited questions from the Council.

MOTION:

Councilmember Swarthout moved, seconded by Councilmember Althausser, to approve and authorize the Mayor to sign the Puget Sound Energy (PSE) Schedule 74 Project Plan and Schedule 74 Construction Agreement, to complete utility undergrounding conversion for the Israel Road and Linderson Way Water Main Project. A voice vote unanimously approved the motion.

**ISRAEL ROAD AND
LINDERSON WAY
WATER MAIN
PROJECT,
AUTHORITY TO
SOLICIT BIDS AND
RECOMMEND
AWARD:**

Manager Lindauer reported the Israel Road and Linderson Way Water Main Project replaces an aging water main along Israel Road and Linderson Way. The project is included in the Water Capital Facilities Plan and is supported in the 2021 Comprehensive Water System Plan update. The project is required to replace aging asbestos water mains originally installed in the 1960s. The mains are close to the end of design life and need replacement to provide a safe and reliable water system to the community. The project includes underground existing overhead utilities partly in preparation for future work on Israel Road in 2024.

The project scope of work consists of replacing the water main on Israel Road from Interstate 5 to Capitol Boulevard totaling approximately 3,750 feet and replacement of water main along Linderson Way from Israel Road south to the access point to the Department of Labor and Industries building totaling approximately 950 feet of water main. The project upgrades all water service connections along the project length in addition to City right-of-way and replacement of pavement and sidewalk affected by the trenching operation. The project includes utility underground improvements for PSE underground conversion from Linderson Way to Capitol Boulevard along Israel Road of 3,115 feet, as well as the City's service connection upgrades underground to the property line to different property owners to include City Hall.

Manager Lindauer displayed an aerial view of the project scope.

Staff released the project for bidding and received seven bids with the highest bid of \$3,939,700.50 and the lowest bid of \$3,365,536.16 from Reed Trucking & Excavating Inc. from Puyallup, Washington. The Engineer's estimate for the project was \$2,997,283.28. Staff anticipated bids ranging between \$2.7 million and \$3.2 million because of unknown material costs in

TUMWATER CITY COUNCIL WORKSESSION
MINUTES OF VIRTUAL MEETING
June 27, 2023 Page 3

today's market. The Engineer's estimate was lower than the lowest bid by approximately 12.3%. Typically, Engineer's estimates should be 10% above or below. Subsequently, staff reviewed the bidding documents from the lowest bidder and completed a full evaluation of the bid. Staff believes the cost estimated by the lowest bidder represents the true cost of construction for today's construction market. Staff recommends moving forward with awarding the bid to the lowest bidder.

Water main improvements are funded by the Water Capital Facilities Plan. For undergrounding and the City's cost share, the amount is funded by the Transportation Capital Facilities Plan. Duration of the project is approximately 50 working days or 2.6 months.

Manager Lindauer reported the City received a bid protest, which is a mechanism an aggrieved bidder uses to challenge the execution of a contract with another bidder. In this case, the company registering the bid protest was the second lowest bidder. The company protested the subcontractor form contending that the lowest bidder did not submit a completed subcontractor form for some electrical components of the project. The company claims that the missing information renders the bid non-viable. The company addressed the issue during a specific element of the project, which was evaluated by staff. Staff determined the bid protest is not viable and that no electrician was required for the work for that specific project location. Staff notified the second lowest bidder of the City's evaluation of the claim and that the City will be providing documentation to the company explaining the City's position that the claim lacks merit. Staff understands it is possible to move forward and award the bid during a protest as long as the City has addressed specific steps prior to the actual execution of the project contract.

Councilmember Jefferson inquired about the information staff ascertained when examining and comparing the Engineer's estimate against the lowest bid. Manager Lindauer explained that the process is somewhat complicated but essentially it speaks to how companies bid with respect to higher or lower bids than the Engineer's estimate. The review evaluates costs that are not feasible. The project is complicated in terms of timing because of the short construction duration to complete the project. Construction scheduling is often difficult to estimate because contractors base their costs on the ability to have sufficient workforce available. The evaluation of the lowest bidder did not reflect any incorrect data. Additionally, over the last several years, it has been difficult to estimate project costs accurately because of the uncertainty and volatility of the market ranging from labor, materials, and energy prices.

Councilmember Agabi asked whether substantiation of the bid protest would have resulted in the City awarding the contract to the company as the second lowest bidder. Director Hicks replied that the award of the contract is a decision by the Council; however, staff would have likely recommended awarding the contract to the second lowest bid as it was within \$20,000 of the

TUMWATER CITY COUNCIL WORKSESSION
MINUTES OF VIRTUAL MEETING
June 27, 2023 Page 4

lowest bid.

Councilmember Dahlhoff questioned whether substantiation of the bid protest would have required the City to release a new bid. Director Hicks responded that the City can award the contract to the second lowest bidder. There are specific reasons for rejecting a bid. If staff deems to reject a bid, staff could automatically consider the second lowest bidder.

MOTION:

Councilmember Swarthout moved, seconded by Councilmember Dahlhoff, to award and authorize the Mayor to sign a public works contract with Reed Trucking & Excavating, Inc. of Puyallup Washington, for \$3,365,536.16 for the Israel Road and Linderson Way Water Main project. A voice vote unanimously approved the motion.

**COMMUNITY
GARDEN UPDATE:**

Director Denney updated the Council on the status of community gardens. A budget of \$200,000 was established to invest in community gardens over time as local non-profits, businesses, and groups contacted the City with an interest in creating a community garden.

The first and only community garden to date is at the United Methodist Church. The garden was installed approximately two years ago. Over the last several years, the City invested \$20,000 in Metropolitan Park District funds to assist the church in the construction of garden boxes, purchasing soil, fencing, and other materials and supplies to support the garden. The garden is created and maintained by the church.

Deb Williams, Community Garden Coordinator, provided an update on the status of the garden. Ms. Williams said the garden was an idea she recommended in 2021. Interest in the garden has been phenomenal. The vision for the garden is to connect and meet the needs of the community and practice loving our neighbors by nurturing independent skills, healthy living, and stewardship. A garden area was provided for the community to create community collaboration, raise food for the Thurston County Food Bank, and educate and include people.

Ms. Williams shared a series of photographs depicting the garden beds in 2021 and a crew of seven individuals. Raised beds installed in 2021 were donated by a church member. Last year, seven gardeners tended the garden and this year eight gardeners have joined the program. Space is available to add several more raised beds. Gardeners represent all age groups. The City was able to install a water meter earlier in the year enabling the group to begin preparing the garden for the 2023 growing season.

Ms. Williams displayed photographs of the garden, garden volunteers, gardeners, and the first box of produce.

The garden is surrounded by fencing encompassing 1/16th of an acre. The

TUMWATER CITY COUNCIL WORKSESSION
MINUTES OF VIRTUAL MEETING
June 27, 2023 Page 5

garden includes a variety of vegetables. Some berries will be added as well as some space to grow squash along a sloped bank area. A Boy Scout project was completed for the project comprised of a seeding area and a BBQ for outdoor events. A new Boy Scout project includes installation of a wash station and a rinse station for produce. Youths from Thurston County Juvenile Detention Center assisted the garden last year and this year by moving mulch and dirt to the gardens. Events at the garden included tomato planting demonstrations, an organic pest control and fertilizing seminar, and food preservation events.

The church has completed phase 1 and 2 of the initial plan comprised of the community garden and the food bank garden. The next stage is planting an orchard with a variety of fruit trees along a sloped area. A garden dedication is scheduled on August 27, 2023 at 12 p.m. at the church. The Council is invited to attend. The church plans to fundraise to cover ongoing garden costs.

Ms. Williams acknowledged Director Denney and Councilmember Jefferson for their assistance, as well as the City for providing initial funds to establish the gardens. She encouraged anyone in the community who would like to volunteer to support the garden to contact her at Tumwatergarden@gmail.com.

Councilmember Dahlhoff commented on the issue of food scarcity among some residents, especially those living in manufactured home parks. She inquired about the possibility of the church considering options for establishing small garden plots for seniors at their homes. Ms. Williams cited a project through the Lacey Food Bank that builds gardens for individuals at their home at no cost. It is also possible to build a community garden in a manufactured home park.

Several Councilmembers thanked Ms. Williams and the church for their efforts in supporting the establishment of a community garden. Ms. Williams advised that the church also offers food bank distribution every third Wednesday in the evening. The church accepts community donations for the food bank and the gardens at its website of Tumwaterumc.org.

PALERMO TRAIL
BRIEFING:

Director Denney reported the General Government Committee was briefed on the proposal and recommends the Council authorize the Palermo Trail through the Palermo neighborhood to be funded from Park Impact Fees.

The Palermo pocket park is a small park of approximately 10,000 square feet of excess land from the creation of the Palermo Wellfield. Amenities include a small play toy and a basketball court. An existing trail was created by people over time through the wellfield and up to the rear of the Burger King restaurant. The trail is a narrow wildlife trail that has been used consistently over the years creating a well-defined pathway. The proposal is to develop

TUMWATER CITY COUNCIL WORKSESSION
MINUTES OF VIRTUAL MEETING
June 27, 2023 Page 6

the trail into a maintained trail segment as part of the Deschutes Valley Trail system. The trail is included in the design of the Deschutes Valley Trail beginning at Tumwater Historical Park through the golf course and ending at Pioneer Park. The Palermo Trail would be a spur to the Deschutes Valley Trail.

Director Denney displayed an illustration of the future Deschutes Valley Trail through the golf course and the connection to the Palermo Trail. The trail is located within a natural setting with many trees, shrubs, and plants. Near the trail is a wetland containing water between the wellfield and the golf course.

The Engineer's estimate for construction of the trail is \$451,030.50. The request is for authority to expend up to \$500,000 from park impact fees that have been earmarked for the Deschutes Valley Trail. Construction could begin in fall dependent upon staffing capacity. Development of the Palermo Trail is important because the existing pathway has experienced some occurrences of nefarious activities as the trail is overgrown with vegetation and serves as a place to hide. Creating an attractive trail system will increase trail traffic and lower the occurrence of activities not beneficial to the City or to the neighborhood.

Director Denney invited questions.

Councilmember Jefferson asked about the length of the trail. Director Denney said the trail is approximately one-half mile in length.

Councilmember Swarthout asked about any concerns by residents from the Palermo neighborhood. Director Denney said staff has not followed up with the neighborhood for this segment of the trail as the original design of the Deschutes Valley Trail included a trail that would have transversed through the neighborhood. Over several meetings, staff worked with the neighborhood to delete that section of the trail and reroute the trail near the golf course. The neighborhood is aware of the existing trail spur and the final design.

City Attorney Kirkpatrick advised forwarding the request to a regular Council meeting as the topic was listed only as a discussion item.

MAYOR/CITY
ADMINISTRATOR'S
REPORT:

Mayor Sullivan welcomed City Administrator Lisa Parks. The meeting is her first as the new City Administrator.

City Administrator Parks said she has enjoyed her first several weeks as the City Administrator. Her predecessor, City Administrator Doan assisted her during those first several weeks.

City Administrator Parks encouraged everyone to participate in City's July 4th activities planned and supported by the Parks and Recreation Department.

**TUMWATER CITY COUNCIL WORKSESSION
MINUTES OF VIRTUAL MEETING
June 27, 2023 Page 7**

Additionally, the City is launching its new website. Staff worked hard to ensure the transition is as seamless and perfect as possible. However, staff does expect some issues and is requesting patience as the new site is transitioned and issues are resolved. The transition of 1,800 pages from the old website to 400 pages of the new website will likely create some challenges.

Mayor Sullivan noted the Council meeting on July 4, 2023 was cancelled due the holiday.

Mayor Sullivan reported on her attendance to the Association of Washington Cities (AWC) with Councilmembers Dahlhoff, Swarthout, and Agabi. The conference was held in Spokane with an extensive agenda from 7 a.m. to 10 p.m.

Mayor Sullivan reminded the community that for those residents 55 years or older they are eligible to receive produce through the Tumwater FRESH program at Isabella Bush Park on Wednesdays and Thursdays.

Councilmember Cathey inquired about receiving some of the information learned during the AWC conference. Mayor Sullivan said AWC is publishing materials on all seminars. Staff will forward the links to the Council. Councilmember Dahlhoff noted that AWC's website includes all presentations and handouts for all seminars and sessions.

Councilmember Cathey said her interest is receiving information Councilmembers believe will benefit the entire Council. Mayor Sullivan recommended adding a discussion during a future worksession.

Councilmember Swarthout noted that AWC provides ongoing training via the internet. Membership is not required to participate.

ADJOURNMENT: With there being no further business, Mayor Sullivan adjourned the meeting at 7:00 p.m.

Prepared by Valerie L. Gow, Recording Secretary/President
Puget Sound Meeting Services, psmsoly@earthlink.net

TO: City Council
 FROM: Shelly Carter, Assistant Finance Director
 DATE: July 18, 2023
 SUBJECT: Payment of Vouchers

1) Recommended Action:

Staff is seeking City Council ratification of:

- June 6, 2023 payment of Eden vouchers 173454 to 173457 in the amount of \$794.01; and Munis vouchers 180482 to 180508 in the amount of \$28,656.51 and electronic payments 903191 to 903211 in the amount of \$35,365.00 and wire payments of \$48,887.60;
 - June 9, 2023 payment of Eden vouchers 173458 to 173476 in the amount of \$341,942.36 and electronic payments 902763 to 902775 in the amount of \$172,725.31 and wire payments of \$227,075.56; and Munis vouchers 180509 to 180561 in the amount of \$220,642.79 and electronic payments 903212 to 903231 in the amount of \$64,286.36;
 - June 16, 2023 payment of Eden vouchers 173477 to 173479 in the amount of \$435.13; and Munis vouchers 180562 to 180644 in the amount of \$219,363.37 and electronic payments 903232 to 903266 in the amount of \$132,127.73;
 - June 23, 2023 payment of Eden vouchers 173480 to 173484 in the amount of \$181,902.77 and electronic payments 902776 to 902783 in the amount of \$71,990.95 and wire payments of \$218,056.66; and Munis vouchers 180645 to 180709 in the amount of \$530,310.19 and electronic payments 903267 to 903299 in the amount of \$811,480.77 and wire payments of \$62,494.36;
 - June 30, 2023 payment of Eden vouchers 173485 to 173494 in the amount of \$2,056.60; and Munis vouchers 180710 to 180756 in the amount of \$1,689,460.54 and electronic payments 903300 to 903324 in the amount of \$44,389.44;
 - July 7, 2023 payment of Eden vouchers 173495 to 173496 in the amount of \$305.74; and Munis vouchers 180757 to 180793 in the amount of \$191,667.07 and electronic payments 903325 to 903336 in the amount of \$95,996.07.
-

2) Background:

The City pays vendors monthly for purchases approved by all departments. The Finance Director has reviewed and released the payments as certified on the attached Exhibit(s). The full voucher listings are available by request to the Assistant Finance Director. The most significant payments* were:

Vendor	\$	Description
Lacey Industrial, LLC	51,418.39	B&O Tax refund - paid in error
WSP USA Inc	26,969.64	Professional Services 4/1 to 5/5 – I5/Trosper/Capital Blvd project
Bobbie & Amanda's Cleaning Svc	21,684.15	Janitorial services for facilities
Airport Glass Inc	75,822.18	PE#1 Union Calvary Pioneer Cemetery fence improvements
Stantec Consulting Svcs, Inc	24,866.00	Deschutes River flood reduction study-May

Vendor	\$	Description
Clary Longview, LLC	54,687.80	2023 Ford Interceptor – replacement for Police
AWC Employee Benefit Trust	138,792.83	July premiums
Core & Main LP	23,495.64	Meters inventory
Environmental Systems Research Inst	30,112.50	Enterprise license agreement annual renewal
Tumwater School District	207,582.00	Impact Fees Collected
WSP USA Inc	21,391.67	On call construction mgt thru 6/2 – I5/Troster/Capital Blvd project
LEOFF Health & Welfare Trust	56,633.05	June premiums – Police
LOTT Wastewater Alliance	652,708.15	May LOTT fees collected
Together!	30,952.54	Community Schools Contract – May
Active Construction, Inc.	852,297.86	PE#5 I5/Troster/Capital Blvd Project
South Puget Sound Habitat for Humanity	726,984.00	Federal CHIP grant (ARPA)
Stantec Consulting Svcs, Inc	57,913.50	Deschutes River flood reduction study-June
Thurston County	43,022.81	2023 April Special Election
PBS Engineering & Environ. Inc.	26,271.25	Percival Creek fish passage barrier removal

* Includes vouchers in excess of \$20,000, excluding routine utility payments.

3) Policy Support:

- Strategic Goals and Priorities: Fiscally responsible and develop sustainable financial strategies.
- Vision Mission Beliefs-Excellence: Efficient stewards of public resources, building public trust through transparency.

4) Alternatives:

- ☐ Ratify the vouchers as proposed.
- ☐ Develop an alternative voucher review and approval process.

5) Fiscal Notes:

The vouchers are for appropriated expenditures in the respective funds and departments.

6) Attachments:

- A. Exhibit A – Payment of Vouchers – Review and Approval
- B. Exhibit B – Payment of Vouchers – Review and Approval
- C. Exhibit C – Payment of Vouchers – Review and Approval
- D. Exhibit D – Payment of Vouchers – Review and Approval
- E. Exhibit E – Payment of Vouchers – Review and Approval
- F. Exhibit F – Payment of Vouchers – Review and Approval

EXHIBIT "A"

I, the undersigned, do hereby certify under penalty of perjury that the materials have been furnished, the services rendered or the labor performed as described herein and that the claim is a just, due and unpaid obligation against the City of Tumwater, and that I am authorized to authenticate and certify to said claim.

Munis

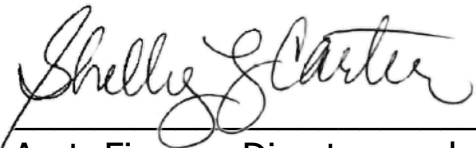
Voucher/Check Nos 180482 through 180508 in the amount of \$28,656.51

Electronic payment No 903191 through 903211 in the amount of \$35,365.00

Wire payments of \$48,887.60

Eden

Voucher/Check Nos 173454 through 173457 in the amount of \$794.01

A handwritten signature in cursive script, reading "Shelly Carter", written over a horizontal line.

Asst. Finance Director, on behalf of the Finance Director

Checks dated 06/02/2023

EXHIBIT "B"

I, the undersigned, do hereby certify under penalty of perjury that the materials have been furnished, the services rendered or the labor performed as described herein and that the claim is a just, due and unpaid obligation against the City of Tumwater, and that I am authorized to authenticate and certify to said claim.

Munis

Voucher/Check Nos 180509 through 180561 in the amount of \$220,642.79

Electronic payment No 903212 through 903231 in the amount of \$64,286.36

Eden

Voucher/Check Nos 173458 through 173476 in the amount of \$341,942.36

Electronic payment No 902763 through 902775 in the amount of \$172,725.31

Wire payments of \$227,075.56



Asst. Finance Director, on behalf of the Finance Director

Checks dated 06/09/2023

EXHIBIT "C"

I, the undersigned, do hereby certify under penalty of perjury that the materials have been furnished, the services rendered or the labor performed as described herein and that the claim is a just, due and unpaid obligation against the City of Tumwater, and that I am authorized to authenticate and certify to said claim.

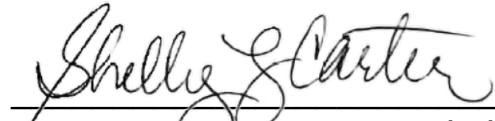
Munis

Voucher/Check Nos 180562 through 180644 in the amount of \$219,363.37

Electronic payment No 903232 through 903266 in the amount of \$132,127.73

Eden

Voucher/Check Nos 173477 through 173479 in the amount of \$435.13

A handwritten signature in cursive script, reading "Shelly G. Carter", written over a horizontal line.

Asst. Finance Director, on behalf of the Finance Director

Checks dated 06/16/2023

EXHIBIT "D"

I, the undersigned, do hereby certify under penalty of perjury that the materials have been furnished, the services rendered or the labor performed as described herein and that the claim is a just, due and unpaid obligation against the City of Tumwater, and that I am authorized to authenticate and certify to said claim.

Munis

Voucher/Check Nos 180645 through 180709 in the amount of \$530,310.19

Electronic payment No 903267 through 903299 in the amount of \$811,480.77

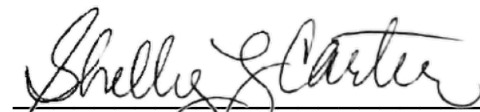
Wire payment of \$62,494.36

Eden

Voucher/Check Nos 173480 through 173484 in the amount of \$181,902.77

Electronic payment No 902776 through 902783 in the amount of \$71,990.95

Wire payments of \$218,056.66



Asst. Finance Director, on behalf of the Finance Director

Checks dated 06/23/2023

EXHIBIT "E"

I, the undersigned, do hereby certify under penalty of perjury that the materials have been furnished, the services rendered or the labor performed as described herein and that the claim is a just, due and unpaid obligation against the City of Tumwater, and that I am authorized to authenticate and certify to said claim.

Munis

Voucher/Check Nos 180710 through 180756 in the amount of \$1,689,460.54

Electronic payment No 903300 through 903324 in the amount of \$44,389.44

Eden

Voucher/Check Nos 173485 through 173494 in the amount of \$2,056.60

A handwritten signature in cursive script, reading "Shelly J. Carter", is written over a horizontal line.

Asst. Finance Director, on behalf of the Finance Director

Checks dated 06/30/2023

EXHIBIT "F"

I, the undersigned, do hereby certify under penalty of perjury that the materials have been furnished, the services rendered or the labor performed as described herein and that the claim is a just, due and unpaid obligation against the City of Tumwater, and that I am authorized to authenticate and certify to said claim.

Munis

Voucher/Check Nos 180757 through 180793 in the amount of \$191,667.07

Electronic payment No 903325 through 903336 in the amount of \$95,996.07

Eden

Voucher/Check Nos 173495 through 173496 in the amount of \$305.74

A handwritten signature in cursive script, reading "Shelly J. Carter", is written over a horizontal line.

Asst. Finance Director, on behalf of the Finance Director

Checks dated 07/07/2023

TO: City Council
 FROM: Brad Medrud, Planning Manager
 DATE: July 18, 2023
 SUBJECT: Grant Amendment #3 for Bush Prairie Habitat Conservation Plan Phase 2

1) Recommended Action:

Approve the attached Grant Amendment #3 for signature by the Mayor.

2) Background:

Working together with the Port of Olympia and large group of stakeholders, the City is completing Phase 2 and starting Phase 3 of the process of preparing the Bush Prairie Habitat Conservation Plan (HCP) with consultant assistance from ICF Jones & Stokes, LLC. The HCP is required as part the City and Port's incidental take permit application with U.S. Fish and Wildlife for the Olympia subspecies of the Mazama pocket gopher, the streak-horned lark, the Oregon spotted frog, and the Oregon vesper sparrow.

The goal of the HCP is to allow responsible growth to occur in the City, while providing superior species protection over what an ad-hoc, case by case permitting approach is providing currently. It is the intent of the HCP to cover all actions by private and public landowners that require City development approvals.

The HCP will allow operations and maintenance, recurring activities, and development to occur in some areas frequented by endangered species, offsetting any habitat loss with other, contiguous mitigation sites.

If the Bush Prairie HCP were not completed, development in a large portion of the City from small additions to single-family houses to larger development, as well as the City and Port's ongoing operations and maintenance activities would require individual HCPs and incidental take permits U.S. Fish and Wildlife.

The third amendment to the Phase 2 grant with the Washington Department of Fish and Wildlife will allow the City and the Port to complete Phase 2 of the project that is intended to support completion of the public draft of the HCP and the NEPA/SEPA review process for the HCP.

The General Government Committee were briefed on this item at their June 14, 2023 meeting and recommended City Council approval.

3) Policy Support:

Comprehensive Plan Conservation Element Goal C-1: Recognize the significant role played by natural features and systems in determining the overall environmental quality and livability of Tumwater.

Comprehensive Plan Conservation Element Policy C-2.16: Protect and preserve habitats for species, which have been identified as endangered, threatened, or sensitive by the state or federal government, giving "special consideration: to conservation or protection measures

necessary to preserve or enhance anadromous fisheries.

4) Alternatives:

☐ None

5) Fiscal Notes:

This is attached Grant Amendment #3 is part of the Phase 2 federal grant administered by WDFW and an internally funded work program task.

6) Attachments:

A. Bush Prairie Habitat Conservation Plan Phase 2 Grant Amendment #3

**CONTRACT AMENDMENT****TITLE:** City of Tumwater HCP Phase 2**WDFW NUMBER:** 18-11088**CONTRACTOR:** City of Tumwater**AMENDMENT NUMBER:** 3**AMENDMENT VALUE:** \$0.00**AMENDMENT EFFECTIVE DATE:**
04/01/2023**CONTRACT END DATE:**
04/01/2024

The above-referenced Contract between the State of Washington, Department of Fish and Wildlife (WDFW); and the City of Tumwater is hereby amended as follows:

AMEND Section D | Period of Performance

The period of performance is extended from April 1, 2023, to **April 1, 2024**.

This no cost time extension will allow more time to complete all objectives required under the Agreement.

AMEND Attachment C | Statement of Work

The Target Completion Dates for Objectives 1, 3 and 4 are extended .

Reporting dates are revised; and new reporting dates added.

This Amendment modifies and replaces the Statement of Work in its entirety with the attached Statement of Work.

This is a no cost Amendment resulting in the total Grant award remaining the same at \$1,146,000.

No other changes authorized under this Amendment.

All other terms and conditions of this Contract remain in full force and effect.

THIS AMENDMENT is executed by the persons signing below, who warrant that they have the authority to execute this Amendment.

CITY OF TUMWATER**WASHINGTON DEPARMENT OF
FISH AND WILDLIFE**

SIGNATURE DATE

Debbie Sullivan Mayor

PRINTED NAME AND TITLE

SIGNATURE DATE

Jeffrey Hugdahl

PRINTED NAME AND TITLE

AMENDMENT 3

Attachment C

Statement of Work

City of Tumwater Habitat Conservation Plan Phase 2

REQUEST SUMMARY

The City of Tumwater (City) and the Port of Olympia (Port) in cooperation with the Washington State Department of Fish and Wildlife (WDFW) received a Cooperative Endangered Species Conservation Fund (Section 6) Habitat Conservation Plan (HCP) Planning Assistance grant in the amount of \$900,000 (75% of the anticipated project cost; 94% or \$846,000 to the City of Tumwater, and 6% or \$54,000 to WDFW) to complete Phase 2 of the HCP development.

Phase 2 grant funds would be used to develop a public draft of the Bush Prairie HCP to cover urban residential, commercial, industrial, and institutional development activities conducted in the City and on Port properties within the City's urban growth boundary that affect listed and other special-status species and their supporting habitats.

The City and Port will complete the following tasks in the second phase of HCP development:

- Review and refine mitigation issues and opportunities identified in Phase 1 specific to the City and the Port for effective management of affected species and prairie ecosystems across private and public lands.
- Continue collaborative Plan development with participation by the Stakeholder group, comprised of property owners, businesses, conservation organizations, and federal, state, and local agencies. The Stakeholder group, convened in Phase 1, has helped to establish criteria for selecting and implementing policies, programs, and projects that seek to conserve and preserve affected species and prairie ecosystems.
- Develop and initiate a broad public process that builds on the work of the Stakeholder group to seek feedback on policies, programs, and projects aimed at conserving and preserving affected species and prairie ecosystems.
- Complete a draft HCP leveraging information collected, memoranda developed, and stakeholder feedback received in Phase 1.
- Develop information to support the US Fish and Wildlife Service (USFWS) in conducting National Environmental Policy Act (NEPA) scoping and defining the issues and anticipated actions for the public, including stakeholders.
- With the City as Lead Agency, develop information to support USFWS in conducting Washington State Environmental Policy Act (SEPA) scoping and defining the issues and anticipated actions for the public, including stakeholders.
- Complete the draft Environmental Impact Statement (EIS) for combined NEPA and SEPA compliance and publication in the Federal Register.
- Receive and review public comments on the draft HCP and EIS. Organize comments to identify themes and significant issues to aid the City and Port in the final stages of HCP development.

OBJECTIVES

The goals for Phase 2 of the HCP planning process are to (for more detail, please refer to "Objectives" and associated "Tasks" described later in the document):

- Continue to educate, inform and involve the public in conservation planning for endangered species.
- Continue to build on other local efforts by Thurston County, WDFW, Center for Natural Lands Management, Department of Defense, and USFWS to maintain and restore the South Puget Sound prairie ecosystem.
- Continue to hold regular meetings of the HCP development team convened in Phase 1 including representatives from the City, the Port, USFWS, the consultant, and other key contributors.
- Continue to seek feedback from stakeholder group convened in Phase 1.
- Incorporate the initial framework for management tools such as regulations, incentives and acquisition strategies that result in protection of contiguous properties to provide for the long-term preservation of endangered species developed in Phase 1 into a draft HCP.
- Integrate features of priority properties identified in Phase 1 as a basis for minimization and mitigation measures into the draft HCP.
- Assemble the elements of an implementation strategy that:
 - o Builds partnerships to implement the strategy,
 - o Establishes conservation milestones, and
 - o Recommends the roles and actions needed for effective conservation and mitigation from conservation partners.
- Complete a draft HCP.
- Develop a long-term HCP implementation funding strategy.
- Provide the Service with resources necessary to continue the NEPA process.
- Conduct the Washington SEPA process concurrent to the NEPA process.
- Provide information and support to complete a draft EIS on the HCP.

The City and the Port have identified the following specific tasks to achieve Phase 2 objectives. Funding obtained for FY17 is critical for continuing the planning efforts begun in FY15. The requested funding will enable achievement of the following tasks to be completed as soon as possible, within one to two years of receipt of grant funds from USFWS:

Objective 1 | Continue to engage stakeholder group and the public to ensure awareness and support of the process and long-term commitment to implementation of the HCP.

Tasks include:

1. Convene quarterly stakeholder group meetings to seek general public feedback on the process and outcomes.
2. Convene public meetings to seek general public feedback on the process and outcomes.

Objective 1 deliverable: Regular meetings with both stakeholder group and general public with feedback received and taken into consideration by project team.

Cost: \$180,644

Schedule: September 2018- April 2024

Completion Date: April 2024

Objective 2 | Use data collected during Phase 1 of the project to develop a draft HCP.

Tasks include:

1. Combine information from the Phase 1 memoranda with data related to current and planned land use, existing permit requests, land development potential, and management and mitigation strategies.
2. Describe the covered activities and environmental conditions relevant to the covered species.
3. Conduct the impact analysis and develop the conservation strategy.
4. Develop the adaptive management and monitoring program.
5. Estimate HCP implementation costs and funding sources.
6. Define the implementation structure, implementation schedule, and changed and unforeseen circumstances and remedial measures.
7. Describe alternatives to take.
8. Present and seek feedback on the administrative draft HCP to the stakeholder group and the public.
9. Incorporate feedback, where appropriate, into the draft plan.

Objective 2 Deliverable: Draft HCP.

Cost: \$188,943

Schedule: September 2018— April 2023

Completion Date: April 2023

Objective 3 | Complete final draft of HCP

Tasks include:

1. Complete First and Second Administrative Draft HCPs.
2. Complete Public Draft HCP

Objective 3 Deliverable: Final HCP for publication, provided electronically only.

Cost: \$348,458

Schedule: February 2019 - April 2024

Completion Date: April 2024

Objective 4 | Complete the draft state and federal environmental review on the draft HCP.

Tasks include:

1. If NEPA/SEPA review results in a Determination of Significance, initiate an EIS
2. Define Proposed Action, Purpose and Need, and Alternatives to the Proposed Action.
3. Document the environmental baseline conditions.
4. Conduct the environmental impact assessment for all applicable resource topics.
5. Complete the public draft EIS.

Objective 4 Deliverable: Draft NEPA and SEPA decision documents...

Cost: \$127,955

Schedule: February 2019 - April 2024

Completion Date: April 2024

LOCATION (PLAN AREA)

Based on the Plan Area and Permit Term Memorandum developed in Phase 1, the HCP plan area (Figure 1) covers the lands within the City boundaries, lands within the City's UGA that are under direct control of the Port, and any additional lands that are to be managed by the permittees for the purposes of covered species conservation. The HCP plan area will be at least 17,000 acres. The plan area may be expanded if suitable mitigation areas are identified outside this area.

ESTIMATED COST

Thurston County received \$846,000 of a \$900,000 pass-through grant funding in partnership with WDFW. A non-federal match of \$150,000, or 12.5% will be provided by the City of Tumwater. The remaining \$150,000 non-federal match will be provided by the Port through an annual entitlement grant. As a key stakeholder in the development of the HCP, the Federal Aviation Administration (FAA) will ask the Port to use this \$150,000 annual entitlement grant to offset the cost of the Port's \$150,000 (12.5%) match.

REPORTING REQUIREMENTS		
Report Title	Report Period	Due Date
Interim Federal Financial Report (SF-425)	March 31, 2019	May 31, 2019
Interim Performance Report	March 31, 2019	May 31, 2019
Interim Federal Financial Report (SF-425)	March 31, 2020	May 31, 2020
Interim Performance Report	March 31, 2020	May 31, 2020
Interim Federal Financial Report (SF-425)	March 31, 2021	May 31, 2021
Interim Performance Report	March 31, 2021	May 31, 2021

Additional reports amended to contract:

• Interim Federal Financial Report (SF-425)	March 31, 2022	May 31, 2022
• Interim Performance Report	March 31, 2022	May 31, 2022
• Interim Federal Financial Report (SF-425)	1/1/2022 – 12/31/2022	March 1, 2023
• Interim Performance Report	1/1/2022 – 12/31/2022	March 1, 2023
• Interim Federal Financial Report (SF-425)	1/1/2023 – 12/31/2023	March 1, 2024
• Interim Performance Report	1/1/2023 – 12/31/2023	March 1, 2024
• Final Federal Financial Report (SF-425)	1/1/2024 – 4/1/2024	April 1, 2024
• Final Performance Report	1/1/2024 – 4/1/2024	April 1, 2024

All reports should be sent to the WDFW Project Manager.

Tables and Figures

Table 1. Species that will likely be covered by HCP

Common Name	Scientific Name	Federal Status	State Status
Olympia pocket gopher	<i>Thomomys mazama pugetensis</i>	FT	ST
Streaked horned lark	<i>Eremophila alpestris strigata</i>	FT	SE
Oregon vesper sparrow	<i>Poocetes gramineus affinis</i>	FSC	SC
Oregon spotted frog	<i>Rana pretiosa</i>	FT	SE
Roy Prairie pocket gopher	<i>Thomomys mazama g/acialis</i>	FT	ST
Tenino pocket gopher	<i>Thomomys mazama tumuli</i>	FT	ST
Yelm pocket gopher	<i>Thomomys mazama ye/mensis</i>	FT	ST
Taylor's checkerspot butterfly	<i>Euphydryas editha taylori</i>	FE	SE
Golden paintbrush	<i>Castilleja levisecta</i>	FT	ST
Kincaid's lupine	<i>Lupinus su/phureus ssp. kincaidii</i>	FT	SE
Nelson's checkermallow	<i>Sidalcea ne/soniana</i>	FT	SE
Hoary elfin butterfly	<i>Callophrys polios obscurus</i>	[none]	SM
Mardon skipper butterfly	<i>Polites mardon</i>	[none]	SE
Oregon branded skipper butterfly	<i>Hesperia colorado oregonia</i>	[none]	SM
Puget blue butterfly	<i>Icaricia icarioides blackmorei</i>	[none]	SC
Vallée silverspot butterfly	<i>Se_el' eria zerene bremnerii</i>	[none]	SC

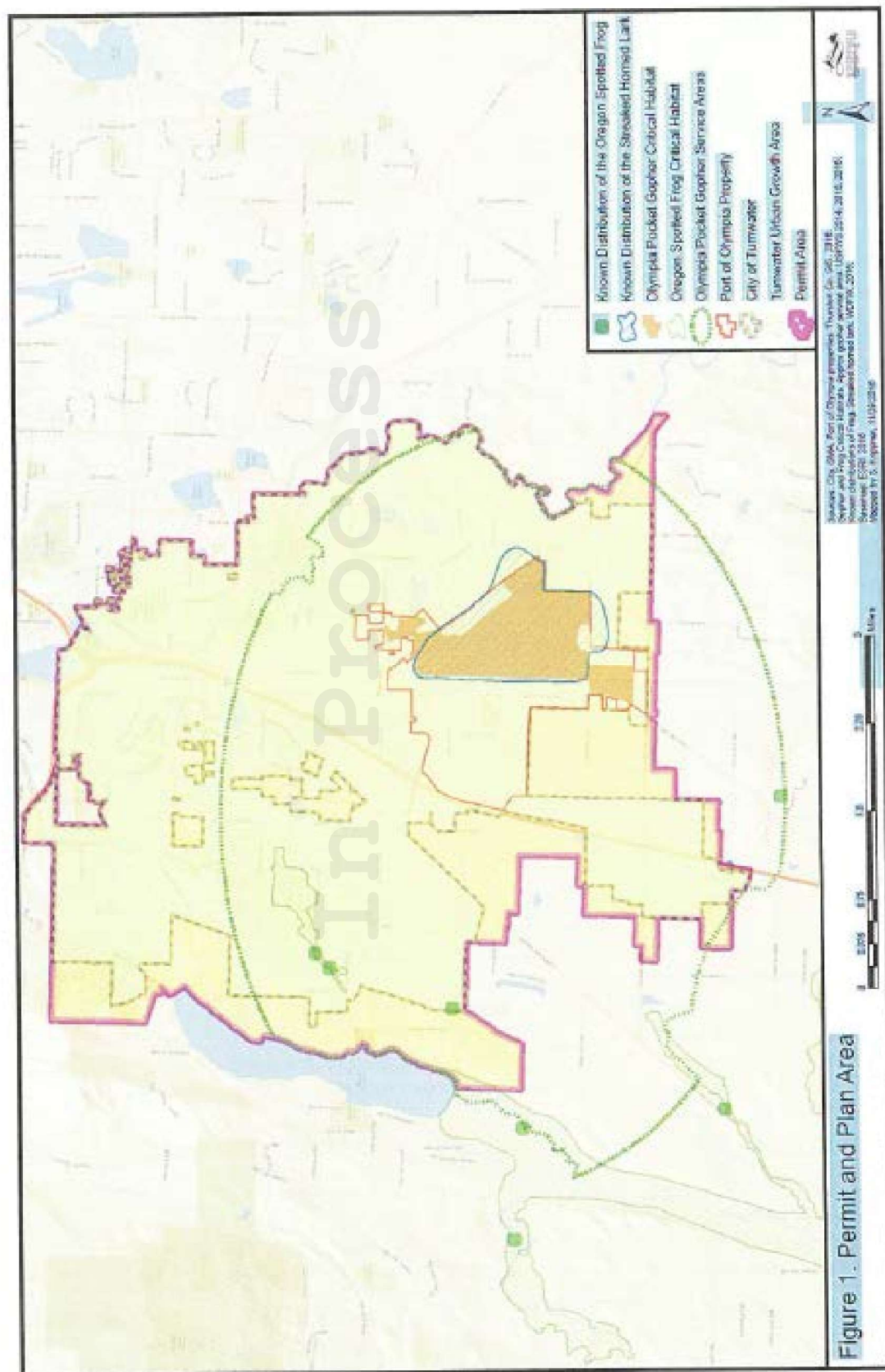
Table 2. Tasks and Deliverables of the Responsible Parties.

Responsible Party	Task	Deliverable
City and Port	Continue to hold regular meetings of HCP development team convened in Phase 1.	Bi-monthly meetings convened to move effort forward.
City and Port	Continue to convene stakeholder group to receive feedback on work products.	Quarterly meetings convened; feedback received, considered, and integrated into work products.
Consultant, City, and Port	Incorporate memoranda developed in Phase 1 into a draft HCP. HCP will: <ul style="list-style-type: none"> • Include reference to management tools developed in Phase 1. • Integrate features of priority properties identified in Phase 1. • Include elements of implementation strategy. • Include funding strategy for long-term implementation. 	Draft HCP.
Consultant, City, and Port	Compile information necessary to initiate NEPA/SEPA efforts.	NEPA/SEPA review documents.
Consultant, City, and Port	Host public meetings to ensure the impacted public has opportunity to learn about and provide input into the draft HCP.	Public meetings.

Table 3. Benefits to covered species and quality of project area

Covered Species	Expected Benefit	Degree of Benefit	Justification
Olympia pocket gopher	The HCP will protect a major population necessary for recovery, including a source population that provides individuals for future emigration, and the HCP will mitigate for development threats to remaining habitat.	High	More than 75% (nearly all) of the range of the Olympia Distinct Population Segment of the Mazama pocket gopher is in the plan area. Conservation of this species will provide additional prairie ecosystem benefits and benefits to other species (page 11).
Streaked horned lark	The HCP will provide management to maintain large treeless expanses necessary for breeding, feeding, and nesting behaviors.	High	The largest breeding population in the South Puget Sound Region is in the plan area. ¹ The breeding population in the plan area is believed to be essential for recovery of the species.
Oregon vesper sparrow	Prairie restoration will benefit this species by maintaining habitat necessary for feeding, breeding, and/or sheltering behaviors.	Low	The plan area represents a small portion of the range of the species but contains all of the habitat features necessary for breeding, sheltering and feeding. This rarely recorded species has been documented to occur in the plan area.
Oregon spotted frog	Critical habitat for this species is in the plan area and the species will benefit from conservation activities at mitigation sites in the Black Lake drainage basin.	Medium	The plan area represents a small portion of the range of the species but contains all of the features necessary for breeding, sheltering and feeding. This rarely recorded species has been documented to occur in the plan area.
Roy Prairie pocket gopher	These species do not occur in the expected impact area; however, they may occur on mitigation sites in the plan area.	Low	Mitigation sites in these species' range will be managed to benefit prairie ecosystems, maintaining species productivity.
Tenino pocket gopher			
Yelm pocket gopher			
Taylor's checkerspot butterfly			
Golden paintbrush	The HCP will provide opportunities for reintroduction of native prairie plants at mitigation sites.	Low	Mitigation sites in these species' range will be managed to benefit prairie ecosystems. Although none of these species are known to occur within the plan area, each of them could establish in suitable habitat at mitigation sites.
Kincaid's lupine			
Nelson's checkermallow			
Hoary elfin butterfly	The HCP will conserve and restore feeding, breeding, and/or sheltering habitat for each of these prairie butterfly species. HCP implementation will include routine monitoring of mitigation sites so we may learn more about the species' distribution.	Low	It is not currently known if any of these species occur within the plan area. If any of them do, impacts might result from covered activities or the species may benefit from prairie conservation and restoration at mitigation sites.
Mardon skipper butterfly			
Oregon branded skipper butterfly			
Puget blue butterfly			
Valley silverspot butterfly			

¹ Estimated number of streaked horned lark pairs in South Puget Sound nesting areas based on survey information collected by WDFW and CNLM, compiled in Table 2 of the Kaufman Properties HCP (2015).



Certificate Of Completion

Envelope Id: 8033E11925144890B2DFBC48C8B70A13	Status: Sent
Subject: 23-22429	
Source Envelope:	
Document Pages: 9	Signatures: 0
Certificate Pages: 5	Initials: 0
AutoNav: Enabled	Envelope Originator:
Envelopeld Stamping: Enabled	DFW DocuSign Contracts
Time Zone: (UTC-08:00) Pacific Time (US & Canada)	1111 Washington Street
	Olympia, WA 98501
	svcDocuSignCT477@dfw.wa.gov
	IP Address: 34.218.25.184

Record Tracking

Status: Original	Holder: DFW DocuSign Contracts	Location: DocuSign
5/23/2023 10:40:58 PM	svcDocuSignCT477@dfw.wa.gov	
Security Appliance Status: Connected	Pool: StateLocal	
Storage Appliance Status: Connected	Pool: Washington State Department of Fish & Wildlife	Location: DocuSign

Signer Events	Signature	Timestamp
Debbie Sullivan		Sent: 5/24/2023 8:22:00 AM
dsullivan@ci.tumwater.wa.us		
City of Tumwater		
Security Level: Email, Account Authentication (None)		
Electronic Record and Signature Disclosure:		
Accepted: 4/18/2023 1:14:00 PM		
ID: 4213a468-e9b9-49ac-bf89-bac4fb944e84		
Jeffrey Hugdahl		
jeffrey.hugdahl@dfw.wa.gov		
Security Level: Email, Account Authentication (None)		
Electronic Record and Signature Disclosure:		
Not Offered via DocuSign		

In Person Signer Events	Signature	Timestamp
Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
Brad Medrud	VIEWED	Sent: 5/23/2023 10:41:50 PM
bmedrud@ci.tumwater.wa.us		Viewed: 5/24/2023 8:21:59 AM
Security Level: Email, Account Authentication (None)		
	Using IP Address: 216.243.3.222	
Electronic Record and Signature Disclosure:		
Accepted: 5/24/2023 8:21:59 AM		
ID: 50e5f4ab-680a-4847-b4ae-2d79525035f0		
Carbon Copy Events	Status	Timestamp

Carbon Copy Events**Status****Timestamp**

JAN Jackson

janice.jackson@dfw.wa.GOV

Security Level: Email, Account Authentication
(None)**Electronic Record and Signature Disclosure:**

Not Offered via DocuSign

Brad Medrud

bmedrud@ci.tumwater.wa.us

Security Level: Email, Account Authentication
(None)**Electronic Record and Signature Disclosure:**

Accepted: 5/24/2023 8:21:59 AM

ID: 50e5f4ab-680a-4847-b4ae-2d79525035f0

Fiscal Payable

FiscalPayableContracts@dfw.wa.gov

Security Level: Email, Account Authentication
(None)**Electronic Record and Signature Disclosure:**

Accepted: 6/15/2022 2:00:23 PM

ID: 63ccf407-2980-45c0-89bb-925183019092

Sean Williams

Sean.Williams@dfw.wa.gov

Security Level: Email, Account Authentication
(None)**Electronic Record and Signature Disclosure:**

Not Offered via DocuSign

Tiffany Hicks

Tiffany.Hicks@dfw.wa.gov

Security Level: Email, Account Authentication
(None)**Electronic Record and Signature Disclosure:**

Not Offered via DocuSign

Witness Events**Signature****Timestamp****Notary Events****Signature****Timestamp****Envelope Summary Events****Status****Timestamps**

Envelope Sent

Hashed/Encrypted

5/23/2023 10:41:50 PM

Payment Events**Status****Timestamps****Electronic Record and Signature Disclosure**

In Process

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, Washington State Department of Fish & Wildlife (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact Washington State Department of Fish & Wildlife:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: dfwservice@dfw.wa.gov

To advise Washington State Department of Fish & Wildlife of your new email address

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at dfwservice@dfw.wa.gov and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

If you created a DocuSign account, you may update it with your new email address through your account preferences.

To request paper copies from Washington State Department of Fish & Wildlife

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to servicedesk@dfw.wa.gov and in the body of such request you must state your email address, full name, mailing address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with Washington State Department of Fish & Wildlife

To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an email to dfwservice@dfw.wa.gov and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: <https://support.docusign.com/guides/signer-guide-signing-system-requirements>.

Acknowledging your access and consent to receive and sign documents electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to ‘I agree to use electronic records and signatures’ before clicking ‘CONTINUE’ within the DocuSign system.

By selecting the check-box next to ‘I agree to use electronic records and signatures’, you confirm that:

- You can access and read this Electronic Record and Signature Disclosure; and
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access; and
- Until or unless you notify Washington State Department of Fish & Wildlife as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by Washington State Department of Fish & Wildlife during the course of your relationship with Washington State Department of Fish & Wildlife.

TO: City Council
FROM: Mary Heather Ames, Assistant Transportation & Engineering Director
DATE: July 18, 2023
SUBJECT: Local Agency Agreement Supplement and Prospectus with WSDOT for the Israel Road and Linderson Way Pedestrian and Bicycle Improvements

1) Recommended Action:

Staff recommends the City Council approve and authorize the Mayor to sign the Local Agency Prospectus for the Israel Road and Linderson Way Pedestrian and Bicycle Improvements. The Local Agency Prospectus was recommended for approval by the Public Works Committee at their July 6, 2023, meeting.

2) Background:

The Israel Road and Linderson Way Pedestrian and Bicycle Improvements project will widen sidewalks, enhance crosswalks, and upgrade pedestrian facilities at a signalized intersection. The project was previously awarded Surface Transportation Block Grant funding. In the latest round, the project received an additional award. The Local Agency Agreement and Prospectus signify the City's acceptance of the funds and pledge to complete the project.

3) Policy Support:

C. Create and maintain a transportation system safe for all modes of travel.
Bike and pedestrian system improvements.

4) Alternatives:

- ☐ Do not authorize approval of the Agreement and inform Thurston Regional Planning Council we cannot meet the obligation commitment.
-

5) Fiscal Notes:

Local funds shown in the Local Agency Agreement Supplement and Local Agency Federal Aid Prospectus are programmed in the Transportation CFP.

6) Attachments:

- A. Local Agency Agreement Supplement
- B. Local Agency Federal Aid Prospectus


**Washington State
Department of Transportation**
Local Agency Agreement Supplement

Agency City of Tumwater		Supplement Number 1
Federal Aid Project Number TAP-5202(002)	Agreement Number LA-9894	CFDA No. 20.205 - Highway Planning and Construction

All provisions in the basic agreement remain in effect except as modified by this supplement.

The Local Agency certifies that it is not excluded from receiving Federal funds by a Federal suspension or debarment (2 CFR Part 180). Additional changes to the agreement are as follows:

Project Description

Name Israel Rd and Linderson Way Pedestrian and Bicycle Improvements

Length 0.50

Termini Varies

Description of Work ☐ No Change

Roadway and multi-modal improvements including construction of refuge island(s), reconstruction of select sidewalk segments and curb ramps, extend bike lanes, signal improvements, watermain replacement, overhead conversion, roadway and other improvements

Reason for Supplement

Additional grant funding has been awarded

Are you claiming indirect cost rate? ☐ Yes ☐ No

Project Agreement End Date December 31, 2028

Advertisement Date

Type of Work		Estimate of Funding				
		(1) Previous Agreement/Suppl.	(2) Supplement	(3) Estimated Total Project Funds	(4) Estimated Agency Funds	(5) Estimated Federal Funds
PE 86.5 %	a. Agency	33182	50000	83182	11230	71952
	b. Other Agency Non-Fed	5318		5318	5318	
Federal Aid Participation Ratio for PE	c. Other			0		
	d. State Services	1500		1500	202	1298
	e. Total PE Cost Estimate (a+b+c+d)	40000	50000	90000	16750	73250
Right of Way %	f. Agency			0		
	g. Other			0		
Federal Aid Participation Ratio for RW	h. Other			0		
	i. State Services			0		
	j. Total R/W Cost Estimate (f+g+h+i)	0	0	0	0	0
Construction %	k. Contract			0		
	l. Other			0		
	m. Other			0		
Federal Aid Participation Ratio for CN	n. Other			0		
	o. Agency			0		
	p. State Services			0		
	q. Total CN Cost Estimate (k+l+m+n+o+p)	0	0	0	0	0
	r. Total Project Cost Estimate (e+j+q)	40000	50000	90000	16750	73250

The Local Agency further stipulates that pursuant to said Title 23, regulations and policies and procedures, and as a condition to payment of the Federal funds obligated, it accepts and will comply with the applicable provisions.

Agency Official

Washington State Department of Transportation

By

By

Title Transportation and Engineering Director

Director, Local Program

Agency Date

Date Executed

Agency City of Tumwater		Supplement Number 1
Federal Aid Project Number TAP-5202(002)	Agreement Number LA-9894	CFDA No. 20.205 - Highway Planning and Construction

VI. Payment and Partial Reimbursement

The total cost of the project, including all review and engineering costs and other expenses of the State, is to be paid by the Agency and by the Federal Government. Federal funding shall be in accordance with the Federal Transportation Act, as amended, 2 CFR Part 200. The State shall not be ultimately responsible for any of the costs of the project. The Agency shall be ultimately responsible for all costs associated with the project which are not reimbursed by the Federal Government. Nothing in this agreement shall be construed as a promise by the State as to the amount or nature of federal participation in this project.

The Agency shall bill the state for federal aid project costs incurred in conformity with applicable federal and state laws. The agency shall minimize the time elapsed between receipt of federal aid funds and subsequent payment of incurred costs. Expenditures by the Local Agency for maintenance, general administration, supervision, and other overhead shall not be eligible for federal participation unless a current indirect cost plan has been prepared in accordance with the regulations outlined in 2 CFR Part 200 - Uniform Admin. Requirements, Cost Principles and Audit Requirements for Federal Awards, and retained for audit.

The State will pay for State incurred costs on the project. Following payment, the State shall bill the Federal Government for reimbursement of those costs eligible for federal participation to the extent that such costs are attributable and properly allocable to this project. The State shall bill the Agency for that portion of State costs which were not reimbursed by the Federal Government (see Section IX).

VII. Audit of Federal Consultant Contracts

The Agency, if services of a consultant are required, shall be responsible for audit of the consultant's records to determine eligible federal aid costs on the project. The report of said audit shall be in the Agency's files and made available to the State and the Federal Government.

An audit shall be conducted by the WSDOT Internal Audit Office in accordance with generally accepted governmental auditing standards as issued by the United States General Accounting Office by the Comptroller General of the United States; WSDOT Manual M 27-50, Consultant Authorization, Selection, and Agreement Administration; memoranda of understanding between WSDOT and FHWA; and 2 CFR Part 200.501 - Audit Requirements.

If upon audit it is found that overpayment or participation of federal money in ineligible items of cost has occurred, the Agency shall reimburse the State for the amount of such overpayment or excess participation.

IX. Payment of Billing

The Agency agrees that if payment or arrangement for payment of any of the State's billing relative to the project (e.g., State force work, project cancellation, overpayment, cost ineligible for federal participation, etc.) is not made to the State within 45 days after the Agency has been billed, the State shall effect reimbursement of the total sum due from the regular monthly fuel tax allotments to the Agency from the Motor Vehicle Fund. No additional Federal project funding will be approved until full payment is received unless otherwise directed by the Director, Local Programs.

Project Agreement End Date - This date is based on your projects Period of Performance (2 CFR Part 200.309).

Any costs incurred after the Project Agreement End Date are NOT eligible for federal reimbursement. All eligible costs incurred prior to the Project Agreement End Date must be submitted for reimbursement within 90 days after the Project Agreement End Date or they become ineligible for federal reimbursement.

VIII. Single Audit Act

The Agency, as a subrecipient of federal funds, shall adhere to the federal regulations outlined in 2 CFR Part 200.501 as well as all applicable federal and state statutes and regulations. A subrecipient who expends \$750,000 or more in federal awards from all sources during a given fiscal year shall have a single or program-specific audit performed for that year in accordance with the provisions of 2 CFR Part 200.501. Upon conclusion of the audit, the Agency shall be responsible for ensuring that a copy of the report is transmitted promptly to the State.

XVII. Assurances

Local Agencies receiving Federal funding from the USDOT or its operating administrations (i.e., Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration) are required to submit a written policy statement, signed by the Agency Executive and addressed to the State, documenting that all programs, activities and services will be conducted in compliance with Section 504 and the Americans with Disabilities Act (ADA).

Instructions

1. **Agency** – Enter the agency name as entered on the original agreement.
2. **Supplemental Number** – Enter the number of the supplement. Supplement numbers will be assigned in sequence beginning with Number 1 for the first supplement.
3. **Project Number** – Enter the federal aid project number assigned by WSDOT on the original agreement.
4. **Agreement Number** – Enter the agreement number assigned by WSDOT on the original agreement.
5. **Project Description** – Enter the project name, length, and termini.
6. **Description of Work** – Clearly describe if there is a change in work such as the addition or deletion of work elements and/or changes to the termini. If the work has not changed, put a check mark in the “No Change” box.
7. **Reason for Supplement** – Enter the reason for this supplement, i.e., increase PE funding to cover design changes presented in the revised prospectus; request funding of construction phase; decrease construction funding to the contract bid amount. If the supplement is authorizing a construction phase, the project’s proposed advertisement date must be included in the space provided.
8. **Claiming Indirect Cost Rate** – Check the Yes box if the agency will be claiming indirect costs on the project. For those projects claiming indirect costs, supporting documentation that clearly shows the indirect cost rate being utilized must be provided with the supplement. Indirect cost rate approval by your cognizant agency or through your agency’s self-certification and supporting documentation is required to be available for review by FHWA, WSDOT and /or State Auditor. Check the No box if the agency will not be claiming indirect costs on the project. See Section 23.5 for additional guidance.
9. **Project Agreement End Date** – Enter your previously established Project Agreement End Date. If authorizing a new phase of the project, update the Project Agreement End Date based on the following guidance:
 - a. **For PE and RW** – WSDOT recommends agencies estimate when the phase will be completed and add three years to determine the “Project Agreement End Date”.
 - b. **For Construction** – WSDOT recommends agencies estimate when construction will be completed and add three years to determine the “Project Agreement End Date”.
 - c. If an extension to a Project Agreement End Date is required between phase authorizations, the need for the extension must be described in the Reason for Supplement. Adequate justification to approve the extension must be submitted with the supplement. See Section 22.3 for additional guidance.
10. **Type of Work and Funding (Round all amounts to the nearest whole dollar).**
 - a. **Column 1** – Enter the amounts from column 1 of the original local agency agreement. If the agreement has already been supplemented, enter the amounts by type of work from column 3 of the last supplemental agreement.
 - b. **Column 2** – Enter increase/decrease to total amounts requested by type of work.
 - c. **Column 3** – Add the amounts in columns 1 and 2.
 - d. **Columns 4 and 5** – Enter the appropriate amounts based on the participation ratio recorded on the original agreement.
11. **Signatures** – An authorized official of the local agency signs the Supplemental Agreement and enters their title and date of signature (mm/dd/yy). **Note:** Do NOT enter a date on the Date Executed line.


**Washington State
Department of Transportation**
**Local Agency Federal Aid
Project Prospectus**

Prefix		Route	()	Date	05/03/2023
Federal Aid Project Number	TAP	5202	002	DUNS Number	03-851-7355
Local Agency Project Number	2018037	(WSDOT Use Only)		Federal Employer Tax ID Number	91-6001520

Agency City of Tumwater	CA Agency <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Federal Program Title <input checked="" type="checkbox"/> 20.205 <input type="checkbox"/> Other
Project Title Israel Rd & Linderson Way Ped & Bike	Start Latitude N 46-59-3.12 End Latitude N 46-59-7.46	Start Longitude W 122-55-5.92 End Longitude W 122-54-45.77
Project Termini From-To 400' s/o Israel Rd Capitol Blvd	Nearest City Name Tumwater	Project Zip Code (+4) 98501+5450
Begin Mile Post	End Mile Post	Length of Project 0.50
Award Type <input checked="" type="checkbox"/> Local <input type="checkbox"/> Local Forces <input type="checkbox"/> State <input type="checkbox"/> Railroad		
Route ID 5202, 5203	Begin Mile Point	End Mile Point
City Number 1325	County Number 34	County Name Thurston
WSDOT Region Olympic Region	Legislative District(s) 22	Congressional District(s) 10
Urban Area Number 6		

Phase	Total Estimated Cost (Nearest Hundred Dollar)	Local Agency Funding (Nearest Hundred Dollar)	Federal Funds (Nearest Hundred Dollar)	Phase Start Date	
				Month	Year
P.E.	90,100	16,800	73,300	December	2021
R/W					
Const.	799,000	179,000	620,000	May	2023
Total	889,100	195,800	693,3900		

Description of Existing Facility (Existing Design and Present Condition)	
Roadway Width 43, 39	Number of Lanes 2 + LTL
Israel Rd: Major collector, 43'W (11' travel/5' shoulders), straight and flat, poor/fair pavement condition. Linderson Way: Major collector, 39'W (10' travel/4.5' shoulders), straight and flat, fair pavement condition.	

Description of Proposed Work	
Description of Proposed Work (Attach additional sheet(s) if necessary)	
Roadway and multi-modal improvements including construction of refuge island(s), reconstruction of select sidewalk segments and curb ramps, extend bike lanes, signal improvements, roadway, watermain replacement, overhead utility conversion, new storm facilities, and other improvements.	

Local Agency Contact Person Brandon Hicks	Title Director	Phone 360-754-4140
Mailing Address 555 Israel Rd SW	City Tumwater	State WA
Zip Code 98501-6568		

Project Prospectus	By _____	
	Approving Authority	
	Title Transportation and Engineering Director	Date 05/03/23

Agency City of Tumwater	Project Title Israel Rd & Linderson Way Ped & Bike	Date 05/03/2023
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Type of Proposed Work

Project Type (Check all that Apply)

- ☐ New Construction ☐ Path / Trail ☐ 3-R
☒ Reconstruction ☒ Pedestrian / Facilities ☐ 2-R
☐ Railroad ☐ Parking ☐ Other
☐ Bridge

Roadway Width

43,39

Number of Lanes

2 + LTL, 2 + LTL

Geometric Design Data

Description	Through Route	Crossroad
Federal Functional Classification	<input type="checkbox"/> Principal Arterial <input type="checkbox"/> Minor Arterial <input type="checkbox"/> Collector <input checked="" type="checkbox"/> Major Collector <input type="checkbox"/> Minor Collector <input type="checkbox"/> Local Access <input checked="" type="checkbox"/> Urban <input type="checkbox"/> Rural <input type="checkbox"/> NHS	<input type="checkbox"/> Principal Arterial <input type="checkbox"/> Minor Arterial <input type="checkbox"/> Collector <input checked="" type="checkbox"/> Major Collector <input type="checkbox"/> Minor Collector <input type="checkbox"/> Local Access <input checked="" type="checkbox"/> Urban <input type="checkbox"/> Rural <input type="checkbox"/> NHS
Terrain	<input checked="" type="checkbox"/> Flat <input type="checkbox"/> Roll <input type="checkbox"/> Mountain	<input checked="" type="checkbox"/> Flat <input type="checkbox"/> Roll <input type="checkbox"/> Mountain
Posted Speed	25 MPH	30 MPH
Design Speed	25 MPH (NA, Enhanced)	30 MPH
Existing ADT	10,000	8,000
Design Year ADT	13,000 (NA, Enhanced)	10,000 (NA, Enhanced)
Design Year	2035 (NA, Enhanced)	2035 (NA, Enhanced)
Design Hourly Volume (DHV)	1,300 (NA, Enhanced)	1,000 (NA, Enhanced)

Performance of Work

Preliminary Engineering Will Be Performed By City of Tumwater	Others %	Agency 100 %
Construction Will Be Performed By Lowest Responsible Bidder	Contract 100 %	Agency %

Environmental Classification

- ☐ Class I - Environmental Impact Statement (EIS)
☐ Project Involves NEPA/SEPA Section 404 Interagency Agreement
☐ Class III - Environmental Assessment (EA)
☐ Project Involves NEPA/SEPA Section 404 Interagency Agreements
- ☒ Class II - Categorically Excluded (CE)
☒ Projects Requiring Documentation (Documented CE)

Environmental Considerations

Agency City of Tumwater	Project Title Israel Rd & Linderson Way Ped & Bike	Date 05/03/2023
----------------------------	---	--------------------

Right of Way

- | | |
|---|---|
| <input checked="" type="checkbox"/> No Right of Way Needed
* All construction required by the contract can be accomplished within the existing right of way. | <input type="checkbox"/> Right of Way Needed
<input type="checkbox"/> No Relocation <input type="checkbox"/> Relocation Required |
|---|---|

Utilities

- ☐ No utility work required
☐ All utility work will be completed prior to the start of the construction contract
☒ All utility work will be completed in coordination with the construction contract

Railroad

- ☐ No railroad work required
☐ All railroad work will be completed prior to the start of the construction contract
☐ All the railroad work will be completed in coordination with the construction contract

Description of Utility Relocation or Adjustments and Existing Major Structures Involved in the Project

Replacement of approx. 4,300 LF of watermain with associated service conversions. Overhead utility conversion with associated services conversions. Construction of new stormwater facilities to handle runoff from the public right-of-way.

FAA Involvement

Is any airport located within 3.2 kilometers (2 miles) of the proposed project? ☒ Yes ☐ No

Remarks

Sidewalk, signal, underground, and surfacing improvements, no impact to airport (most of Tumwater is within 2 miles of Olympia Regional Airport).

This project has been reviewed by the legislative body of the administration agency or agencies, or it's designee, and is not inconsistent with the agency's comprehensive plan for community development.

Agency City of Tumwater

Date

By _____ Mayor/Chairperson

TO: City Council
 FROM: Mary Heather Ames, Assistant Transportation & Engineering Director
 DATE: July 18, 2023
 SUBJECT: Local Agency Agreement and Prospectus with WSDOT for the Percival Creek Fish Passage Barrier Removal Project

1) Recommended Action:

Staff recommends the City Council approve and authorize the Mayor to sign the Local Agency Agreement and Prospectus for the Percival Creek Fish Passage Barrier Removal project. The Local Agency Prospectus was recommended for approval by the Public Works Committee at their July 6, 2023, meeting.

2) Background:

The culvert conveying Percival Creek under Sapp Road was identified as a full fish passage barrier, so a project was developed to address the barrier with the installation of a 19-foot four sided box culvert. Earlier in 2023, the project was awarded PROTECT (Promoting Resilient Operations for Transformative, Efficient, and Cost-Saving Transportation) funding to complete the right-of-way and construction phases of the project. The Local Agency Agreement and Prospectus allows us to obtain the money and move the project forward.

3) Policy Support:

B. Be a Leader in Environmental Sustainability
 12. Remove obstructions to fish passages

4) Alternatives:

☐ Do not authorize approval of the Agreement and refuse the PROTECT funding for this project.

5) Fiscal Notes:

Local funds shown in the Local Agency Agreement and Local Agency Federal Aid Prospectus are programmed in the Utility CFP.

6) Attachments:

A. Local Agency Agreement
 B. Local Agency Federal Aid Prospectus

Item 6g.


**Washington State
Department of Transportation**

Agency City of Tumwater

 Address 555 Israel Rd SW
Tumwater, WA 98501-4072

Local Agency Agreement
CFDA No. 20.205 - Highway Planning and Construction
(Catalog of Federal Domestic Assistance)
Project No.**Agreement No.**

For WSDOT Use Only

The Local Agency having complied, or hereby agreeing to comply, with the terms and conditions set forth in (1) Title 23, U.S. Code Highways, (2) the regulations issued pursuant thereto, (3) 2 CFR Part 200, (4) 2 CFR Part 180 – certifying that the local agency is not excluded from receiving Federal funds by a Federal suspension or debarment, (5) the policies and procedures promulgated by the Washington State Department of Transportation, and (6) the federal aid project agreement entered into between the State and Federal Government, relative to the above project, the Washington State Department of Transportation will authorize the Local Agency to proceed on the project by a separate notification. Federal funds which are to be obligated for the project may not exceed the amount shown herein on line r, column 3, without written authority by the State, subject to the approval of the Federal Highway Administration. All project costs not reimbursed by the Federal Government shall be the responsibility of the Local Agency.

Project Description

Name Percival Creek Fish Passage Barrier Removal

Length 0.04 Miles

Termini 75' e/o Klahowya Lane and 400' w/o Antsen Street

Description of Work

Replacement of a full barrier culvert with a four-sided culvert. Additionally, will include placement of large woody material structures and regrading of the stream. Includes roadway reconstruction and the addition of bike lanes and sidewalks throughout.

Project Agreement End Date December 31, 2028

Claiming Indirect Cost Rate

☐ Yes ☒ No

Proposed Advertisement Date

Type of Work		Estimate of Funding		
		(1) Estimated Total Project Funds	(2) Estimated Agency Funds	(3) Estimated Federal Funds
PE	a. Agency			
0 %	b. Other			
Federal Aid	c. Other			
Participation	d. State Services			
Ratio for PE	e. Total PE Cost Estimate (a+b+c+d)	0	0	0
Right of Way	f. Agency	25000		25000
100 %	g. Other Ineligible	45000	45000	
Federal Aid	h. Other Aquisition	75000		75000
Participation	i. State Services	5000	5000	
Ratio for RW	j. Total R/W Cost Estimate (f+g+h+i)	150000	50000	100000
Construction	k. Contract			
100 %	l. Other			
Federal Aid	m. Other			
Participation	n. Other			
Ratio for CN	o. Agency			
	p. State Services			
	q. Total CN Cost Estimate (k+l+m+n+o+p)	0	0	0
	r. Total Project Cost Estimate (e+j+q)	150000	50000	100000

Agency Official

By

Title Transportation & Engineering Director

Agency Date

Washington State Department of Transportation

By

Director, Local Programs

Date Executed

Construction Method of Financing (Check Method Selected)

State Ad and Award

Method A - Advance Payment - Agency Share of total construction cost (based on contract award)

Method B - Withhold from gas tax the Agency's share of total construction cost (line 5, column 2) in the amount of

\$ _____ at \$ _____ per month for _____ months.

Local Force or Local Ad and Award

Method C - Agency cost incurred with partial reimbursement

The Local Agency further stipulates that pursuant to said Title 23, regulations and policies and procedures, and as a condition to payment of the federal funds obligated, it accepts and will comply with the applicable provisions set forth below. Adopted by official action on _____, Resolution/Ordinance No. _____.

Provisions

I. Scope of Work

The Agency shall provide all the work, labor, materials, and services necessary to perform the project which is described and set forth in detail in the "Project Description" and "Type of Work."

When the State acts for and on behalf of the Agency, the State shall be deemed an agent of the Agency and shall perform the services described and indicated in "Type of Work" on the face of this agreement, in accordance with plans and specifications as proposed by the Agency and approved by the State and the Federal Highway Administration.

When the State acts for the Agency but is not subject to the right of control by the Agency, the State shall have the right to perform the work subject to the ordinary procedures of the State and Federal Highway Administration.

II. Delegation of Authority

The State is willing to fulfill the responsibilities to the Federal Government by the administration of this project. The Agency agrees that the State shall have the full authority to carry out this administration. The State shall review, process, and approve documents required for federal aid reimbursement in accordance with federal requirements. If the State advertises and awards the contract, the State will further act for the Agency in all matters concerning the project as requested by the Agency. If the Local Agency advertises and awards the project, the State shall review the work to ensure conformity with the approved plans and specifications.

III. Project Administration

Certain types of work and services shall be provided by the State on this project as requested by the Agency and described in the Type of Work above. In addition, the State will furnish qualified personnel for the supervision and inspection of the work in progress. On Local Agency advertised and awarded projects, the supervision and inspection shall be limited to ensuring all work is in conformance with approved plans, specifications, and federal aid requirements. The salary of such engineer or other supervisor and all other salaries and costs incurred by State forces upon the project will be considered a cost thereof. All costs related to this project incurred by employees of the State in the customary manner on highway payrolls and vouchers shall be charged as costs of the project.

IV. Availability of Records

All project records in support of all costs incurred and actual expenditures kept by the Agency are to be maintained in accordance with local government accounting procedures prescribed by the Washington State Auditor's Office, the U.S. Department of Transportation, and the Washington State Department of Transportation. The records shall be open to inspection by the State and Federal Government at all reasonable times and shall be retained and made available for such inspection for a period of not less than three years from the final payment of any federal aid funds to the Agency. Copies of said records shall be furnished to the State and/or Federal Government upon request.

V. Compliance with Provisions

The Agency shall not incur any federal aid participation costs on any classification of work on this project until authorized in writing by the State for each classification. The classifications of work for projects are:

1. Preliminary engineering.
2. Right of way acquisition.
3. Project construction.

Once written authorization is given, the Agency agrees to show continuous progress through monthly billings. Failure to show continuous progress may result the Agency's project becoming inactive, as described in 23 CFR 630, and subject to de-obligation of federal aid funds and/or agreement closure.

If right of way acquisition, or actual construction of the road for which preliminary engineering is undertaken is not started by the close of the tenth fiscal year following the fiscal year in which preliminary engineering phase was authorized, the Agency will repay to the State the sum or sums of federal funds paid to the Agency under the terms of this agreement (see Section IX).

If actual construction of the road for which right of way has been purchased is not started by the close of the tenth fiscal year following the fiscal year in which the right of way phase was authorized, the Agency will repay to the State the sum or sums of federal

funds paid to the Agency under the terms of this agreement (see Section IX).

The Agency agrees that all stages of construction necessary to provide the initially planned complete facility within the limits of this project will conform to at least the minimum values set by approved statewide design standards applicable to this class of highways, even though such additional work is financed without federal aid participation.

The Agency agrees that on federal aid highway construction projects, the current federal aid regulations which apply to liquidated damages relative to the basis of federal participation in the project cost shall be applicable in the event the contractor fails to complete the contract within the contract time.

VI. Payment and Partial Reimbursement

The total cost of the project, including all review and engineering costs and other expenses of the State, is to be paid by the Agency and by the Federal Government. Federal funding shall be in accordance with the Federal Transportation Act, as amended, 2 CFR Part 200. The State shall not be ultimately responsible for any of the costs of the project. The Agency shall be ultimately responsible for all costs associated with the project which are not reimbursed by the Federal Government. Nothing in this agreement shall be construed as a promise by the State as to the amount or nature of federal participation in this project.

The Agency shall bill the state for federal aid project costs incurred in conformity with applicable federal and state laws. The agency shall minimize the time elapsed between receipt of federal aid funds and subsequent payment of incurred costs. Expenditures by the Local Agency for maintenance, general administration, supervision, and other overhead shall not be eligible for federal participation unless a current indirect cost plan has been prepared in accordance with the regulations outlined in 2 CFR Part 200 - Uniform Admin Requirements, Cost Principles and Audit Requirements for Federal Awards, and retained for audit.

The State will pay for State incurred costs on the project. Following payment, the State shall bill the Federal Government for reimbursement of those costs eligible for federal participation to the extent that such costs are attributable and properly allocable to this project. The State shall bill the Agency for that portion of State costs which were not reimbursed by the Federal Government (see Section IX).

1. Project Construction Costs

Project construction financing will be accomplished by one of the three methods as indicated in this agreement.

Method A – The Agency will place with the State, within (20) days after the execution of the construction contract, an advance in the amount of the Agency's share of the total construction cost based on the contract award. The State will notify the Agency of the exact amount to be deposited with the State. The State will pay all costs incurred under the contract upon presentation of progress billings from the contractor. Following such payments, the State will submit a billing to the Federal Government for the federal aid participation share of the cost. When the project is substantially completed and final actual costs of the project can be determined, the State will present the Agency with a final billing showing the amount due the State or the amount due the Agency. This billing will be cleared by either a payment from the Agency to the State or by a refund from the State to the Agency.

Method B – The Agency's share of the total construction cost as shown on the face of this agreement shall be withheld from its monthly fuel tax allotments. The face of this agreement establishes the months in which the withholding shall take place and the exact amount to be withheld each month. The extent of withholding will be confirmed by letter from the State at the time of contract award. Upon receipt of progress billings from the contractor, the State will submit such billings to the Federal Government for payment of its participating portion of such billings.

Method C – The Agency may submit vouchers to the State in the format prescribed by the State, in duplicate, not more than once per month for those costs eligible for Federal participation to the extent that such costs are directly attributable and properly allocable to this project. Expenditures by the Local Agency for maintenance, general administration, supervision, and other overhead shall not be eligible for Federal participation unless claimed under a previously approved indirect cost plan.

The State shall reimburse the Agency for the Federal share of eligible project costs up to the amount shown on the face of this agreement. At the time of audit, the Agency will provide documentation of all costs incurred on the project. The State shall bill the Agency for all costs incurred by the State relative to the project. The State shall also bill the Agency for the federal funds paid by the State to the Agency for project costs which are subsequently determined to be ineligible for federal participation (see Section IX).

VII. Audit of Federal Consultant Contracts

The Agency, if services of a consultant are required, shall be responsible for audit of the consultant's records to determine eligible federal aid costs on the project. The report of said audit shall be in the Agency's files and made available to the State and the Federal Government.

An audit shall be conducted by the WSDOT Internal Audit Office in accordance with generally accepted governmental auditing standards as issued by the United States General Accounting Office by the Comptroller General of the United States; WSDOT Manual M 27-50, Consultant Authorization, Selection, and Agreement Administration; memoranda of understanding between WSDOT and FHWA; and 2 CFR Part 200.501 - Audit Requirements.

If upon audit it is found that overpayment or participation of federal money in ineligible items of cost has occurred, the Agency shall reimburse the State for the amount of such overpayment or excess participation (see Section IX).

VIII. Single Audit Act

The Agency, as a subrecipient of federal funds, shall adhere to the federal regulations outlined in 2 CFR Part 200.501 as well as all applicable federal and state statutes and regulations. A subrecipient who expends \$750,000 or more in federal awards from all sources during a given fiscal year shall have a single or program-specific audit performed for that year in accordance with the provisions of 2 CFR Part 200.501. Upon conclusion of the audit, the Agency shall be responsible for ensuring that a copy of the report is transmitted

promptly to the State.

IX. Payment of Billing

The Agency agrees that if payment or arrangement for payment of any of the State's billing relative to the project (e.g., State force work, project cancellation, overpayment, cost ineligible for federal participation, etc.) is not made to the State within 45 days after the Agency has been billed, the State shall effect reimbursement of the total sum due from the regular monthly fuel tax allotments to the Agency from the Motor Vehicle Fund. No additional Federal project funding will be approved until full payment is received unless otherwise directed by the Director, Local Programs.

Project Agreement End Date - This date is based on your projects Period of Performance (2 CFR Part 200.309).

Any costs incurred after the Project Agreement End Date are NOT eligible for federal reimbursement. All eligible costs incurred prior to the Project Agreement End Date must be submitted for reimbursement within 60 days after the Project Agreement End Date or they become ineligible for federal reimbursement.

X. Traffic Control, Signing, Marking, and Roadway Maintenance

The Agency will not permit any changes to be made in the provisions for parking regulations and traffic control on this project without prior approval of the State and Federal Highway Administration. The Agency will not install or permit to be installed any signs, signals, or markings not in conformance with the standards approved by the Federal Highway Administration and MUTCD. The Agency will, at its own expense, maintain the improvement covered by this agreement.

XI. Indemnity

The Agency shall hold the Federal Government and the State harmless from and shall process and defend at its own expense all claims, demands, or suits, whether at law or equity brought against the Agency, State, or Federal Government, arising from the Agency's execution, performance, or failure to perform any of the provisions of this agreement, or of any other agreement or contract connected with this agreement, or arising by reason of the participation of the State or Federal Government in the project, PROVIDED, nothing herein shall require the Agency to reimburse the State or the Federal Government for damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of the Federal Government or the State.

XII. Nondiscrimination Provision

No liability shall attach to the State or Federal Government except as expressly provided herein.

The Agency shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract and/or agreement or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Agency shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts and agreements. The WSDOT's DBE program, as required by 49 CFR Part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Agency of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

The Agency hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the rules and regulations of the Secretary of Labor in 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee or understanding pursuant to any federal program involving such grant, contract, loan, insurance, or guarantee, the required contract provisions for Federal-Aid Contracts (FHWA 1273), located in Chapter 44 of the Local Agency Guidelines.

The Agency further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, that if the applicant so participating is a State or Local Government, the above equal opportunity clause is not applicable to any agency, instrumentality, or subdivision of such government which does not participate in work on or under the contract.

The Agency also agrees:

- (1) To assist and cooperate actively with the State in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and rules, regulations, and relevant orders of the Secretary of Labor.
- (2) To furnish the State such information as it may require for the supervision of such compliance and that it will otherwise assist the State in the discharge of its primary responsibility for securing compliance.
- (3) To refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, government contracts and federally assisted construction contracts pursuant to the Executive Order.
- (4) To carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the State, Federal Highway Administration, or the Secretary of Labor pursuant to Part II, subpart D of the Executive Order.

In addition, the Agency agrees that if it fails or refuses to comply with these undertakings, the State may take any or all of the following actions:

- (a) Cancel, terminate, or suspend this agreement in whole or in part;
- (b) Refrain from extending any further assistance to the Agency under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from the Agency; and

(c) Refer the case to the Department of Justice for appropriate legal proceedings.

XIII. Liquidated Damages

The Agency hereby agrees that the liquidated damages provisions of 23 CFR Part 635, Subpart 127, as supplemented, relative to the amount of Federal participation in the project cost, shall be applicable in the event the contractor fails to complete the contract within the contract time. Failure to include liquidated damages provision will not relieve the Agency from reduction of federal participation in accordance with this paragraph.

XIV. Termination for Public Convenience

The Secretary of the Washington State Department of Transportation may terminate the contract in whole, or from time to time in part, whenever:

- (1) The requisite federal funding becomes unavailable through failure of appropriation or otherwise.
- (2) The contractor is prevented from proceeding with the work as a direct result of an Executive Order of the President with respect to the prosecution of war or in the interest of national defense, or an Executive Order of the President or Governor of the State with respect to the preservation of energy resources.
- (3) The contractor is prevented from proceeding with the work by reason of a preliminary, special, or permanent restraining order of a court of competent jurisdiction where the issuance of such order is primarily caused by the acts or omissions of persons or agencies other than the contractor.
- (4) The Secretary is notified by the Federal Highway Administration that the project is inactive.
- (5) The Secretary determines that such termination is in the best interests of the State.

XV. Venue for Claims and/or Causes of Action

For the convenience of the parties to this contract, it is agreed that any claims and/or causes of action which the Local Agency has against the State of Washington, growing out of this contract or the project with which it is concerned, shall be brought only in the Superior Court for Thurston County.

XVI. Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying

The approving authority certifies, to the best of his or her knowledge and belief, that:

- (1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit the Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, and contracts and subcontracts under grants, subgrants, loans, and cooperative agreements) which exceed \$100,000, and that all such subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification as a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

XVII. Assurances

Local agencies receiving Federal funding from the USDOT or its operating administrations (i.e., Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration) are required to submit a written policy statement, signed by the Agency Executive and addressed to the State, documenting that all programs, activities, and services will be conducted in compliance with Section 504 and the Americans with Disabilities Act (ADA).

Additional Provisions

Instructions

1. **Agency Name and Billing Address** – Enter the Agency of primary interest which will become a party to the agreement.
2. **Project Number** – Leave blank. This number will be assigned by WSDOT.
3. **Agreement Number** – Leave blank. This number will be assigned by WSDOT.
4.
 - a. **Project Description** – Enter the project name, total length of the project (in miles), and a brief description of the termini. Data entered here must be consistent with the name, length, and termini noted in the STIP and Project Prospectus
Example: (Name) "Regal Road", (Length) "1.2 miles", (Termini) "Smith Road to Main Street"
 - b. **Description of Work** – Enter a concise statement of the major items of work to be performed. Statement must be consistent with the description of work noted in the STIP and Project Prospectus.
Example: "Overlay Regal Road; install curb, gutter, and sidewalk; illumination; and traffic signal at the intersection of Regal Road and Dakota Avenue."
 - c. **Project Agreement End Date** – Enter the Project Agreement End Date (mm/dd/yy). This date is based on the project's Period of Performance (2 CFR 200.309).
 For Planning Only projects – WSDOT recommends agencies estimate the end of the project's period of performance and add three years to determine the "Project Agreement End Date".
 For PE and RW – WSDOT recommends agencies estimate when the phase will be completed and add three years to determine the "Project Agreement End Date". For Construction – WSDOT recommends agencies estimate when construction will be completed and add three years to determine the "Project Agreement End Date".
 - d. **Proposed Advertisement Date** – At construction authorization only, enter the proposed project advertisement date (mm/dd/yy).
 - e. **Claiming Indirect Cost Rate** – Check the Yes box if the agency will be claiming indirect costs on the project. For those projects claiming indirect costs, supporting documentation that clearly shows the indirect cost rate being utilized must be provided with the local agency agreement. Indirect cost rate approval by your cognizant agency or through your agency's self-certification and supporting documentation is required to be available for review by FHWA, WSDOT and /or State Auditor. Check the No box if the agency will not be claiming indirect costs on the project. See section 23.5 for additional guidance.
4. **Type of Work and Funding (Round all dollar amounts to the nearest whole dollar)**
 - a. **PE** – Lines a through d show Preliminary Engineering costs for the project by type of work (e.g., consultant, agency, state services, etc.).
 *Federal aid participation ratio for PE – enter ratio for PE lines with amounts in column 3.
 - **Line a** – Enter the estimated amount of agency work in columns 1 through 3.
 - **Line b & c** – Identify user, consultant, etc., and enter the estimated amounts in columns 1 through 3.
 - **Line d** – State Services. Every project must have funding for state services. Enter the estimated amounts in columns 1 through 3.
 - **Line e** – Total of lines a + b + c + d.
 - b. **Right of Way** – If a Right of Way phase is authorized on the project, the appropriate costs are shown in lines f through i.
 *Federal aid participation ratio for RW – enter ratio for RW lines with amounts in column 3.
 - **Line f** – Enter the estimated amount of agency work in columns 1 through 3.
 - **Line g & h** – Identify user, consultant, etc., and enter the estimated amounts in columns 1 through 3.
 - **Line i** – State Services. Every project must have funding for state services. Enter the estimated amounts in columns 1 through 3.
 - **Line j** – Total of lines f + g + h + i.
 - c. **Construction** – Lines k through p show construction costs for the project by type of work (e.g., contract, consultant, agency, state services, etc.).
 *Federal aid participation ratio for CN – enter ratio for CN lines with amounts in column 3.

- **Line k** – Enter the estimated cost of the contract.
- **Lines l, m, & n** – Enter other estimated costs such as utility and construction contracts or non-federally matched contract costs.
- **Line o** – Enter estimated costs of all construction related agency work.
- **Line p** – State Services. Every project must have funding for state services. Enter the estimated amounts in columns 1 through 3.
- **Line q** – Total Construction Cost Estimate. Total of lines k + l + m + n + o + p.

d. **Total Project Cost Estimate**

- **Line r** – Total Cost Estimate of the Project. Total of lines e + j + q.

*Please remember, if the federal aid participation rate entered is not the maximum rate allowed by FHWA, then the participation rate entered becomes the maximum rate allowed.

6. **Signatures** – An authorized official of the local agency signs the agreement and enters their title and date of signature (mm/dd/yy). **Note:** Do NOT enter a date on the Date Executed line.
7. **Method of Construction Financing** – Choose the method of financing for the construction portion of the project.
 - a. **Method “A”** is used when the state administers the contract for the agency.
 - b. **Method “B”** is also used when the state administers the contract for the agency.
 - c. **Method “C”** is used with projects administered by the local agency. The agency will submit billings monthly through the state to FHWA for all eligible costs. The billings must document the payment requests from the contractor. If state-force work, such as audit and construction engineering, is to receive federal participation, it will be billed to the agency and FHWA simultaneously at the indicated ratio. To show continuous progress agencies should bill monthly until agreement is closed.
8. **Resolutions/Ordinances** – When someone other than the County Executive/Chairman, County Commissioners/Mayor is authorized to sign the agreement, the agency must submit to WSDOT with the agreement a copy of the Resolution/Ordinance designating that individual.
9. **Parties to the Agreement** – Submit one originally signed agreement form to the Region Local Programs Engineer. It is the responsibility of the local agency to submit an additional, originally signed agreement form if they need an executed agreement for their files. The agreement is first executed by the agency official(s) authorized to enter into the agreement. It is then transmitted to the state for execution by Local Programs. The agreement is dated at the time of final execution by Local Programs.

Item 6g.


**Washington State
Department of Transportation**
**Local Agency Federal Aid
Project Prospectus**

	Prefix	Route	()	Date	05/08/2023
Federal Aid Project Number				DUNS Number	03-851-7355
Local Agency Project Number	2020033	(WSDOT Use Only)		Federal Employer Tax ID Number	91-6001520

Agency City of Tumwater		CA Agency <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Federal Program Title <input checked="" type="checkbox"/> 20.205 <input type="checkbox"/> Other		
Project Title Percival Creek Fish Passage Barrier Removal		Start Latitude N 47.010833		Start Longitude W -122.932368	
		End Latitude N 47.010851		End Longitude W -122.931578	
Project Termini From-To 75' e/o Klahowya Lane 400' w/o Antsen Street		Nearest City Name Tumwater			Project Zip Code (+4)
Begin Mile Post	End Mile Post	Length of Project 0.04		Award Type <input checked="" type="checkbox"/> Local <input type="checkbox"/> Local Forces <input type="checkbox"/> State <input type="checkbox"/> Railroad	
Route ID	Begin Mile Point	End Mile Point	City Number 1325	County Number 34	County Name Thurston
WSDOT Region Olympic Region	Legislative District(s) 22		Congressional District(s) 10		Urban Area Number 6

Phase	Total Estimated Cost (Nearest Hundred Dollar)	Local Agency Funding (Nearest Hundred Dollar)	Federal Funds (Nearest Hundred Dollar)	Phase Start Date	
P.E.				Month	Year
R/W	\$150,000	\$50,000	\$100,000	November	2021
Const.	\$2,000,000		\$2,000,000	January	2023
				May	2024
Total	\$2,420,000	\$320,000	\$2,100,000		

Description of Existing Facility (Existing Design and Present Condition)

Roadway Width 20 feet	Number of Lanes 2
--------------------------	----------------------

Major collector; two approximately 10 foot travel lanes; flat and straight; lack of bike lanes and ADA and multi-modal facilities.

Description of Proposed Work

Description of Proposed Work (Attach additional sheet(s) if necessary)

Replacement of a full barrier culvert with a four-sided culvert. Additionally, will include placement of large woody material structures and regrading of the stream. Includes roadway reconstruction and the addition of bike lanes and sidewalks throughout.

Local Agency Contact Person Brandon Hicks		Title Director		Phone 360-754-4140	
Mailing Address 555 Israel Rd SW		City Tumwater		State WA	Zip Code 98501
Project Prospectus	By _____ Approving Authority				
	Title Transportation and Engineering Director				Date

Agency City of Tumwater	Project Title Percival Creek Fish Passage Barrier Removal	Date 05/08/2023
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Type of Proposed Work

Project Type (Check all that Apply)

- | | | |
|--|--|--------------------------------|
| <input type="checkbox"/> New Construction | <input type="checkbox"/> Path / Trail | <input type="checkbox"/> 3-R |
| <input checked="" type="checkbox"/> Reconstruction | <input type="checkbox"/> Pedestrian / Facilities | <input type="checkbox"/> 2-R |
| <input type="checkbox"/> Railroad | <input type="checkbox"/> Parking | <input type="checkbox"/> Other |
| <input type="checkbox"/> Bridge | | |

Roadway Width

20 feet

Number of Lanes

2

Geometric Design Data

Description	Through Route	Crossroad
Federal Functional Classification	<input type="checkbox"/> Principal Arterial <input type="checkbox"/> Minor Arterial <input type="checkbox"/> Collector <input checked="" type="checkbox"/> Major Collector <input type="checkbox"/> Minor Collector <input type="checkbox"/> Local Access <input checked="" type="checkbox"/> Urban <input type="checkbox"/> Rural <input type="checkbox"/> NHS	<input type="checkbox"/> Principal Arterial <input type="checkbox"/> Minor Arterial <input type="checkbox"/> Collector <input type="checkbox"/> Major Collector <input type="checkbox"/> Minor Collector <input type="checkbox"/> Local Access <input type="checkbox"/> Urban <input type="checkbox"/> Rural <input type="checkbox"/> NHS
Terrain	<input checked="" type="checkbox"/> Flat <input type="checkbox"/> Roll <input type="checkbox"/> Mountain	<input type="checkbox"/> Flat <input type="checkbox"/> Roll <input type="checkbox"/> Mountain
Posted Speed	35	
Design Speed	35	
Existing ADT		
Design Year ADT		
Design Year		
Design Hourly Volume (DHV)		

Performance of Work

Preliminary Engineering Will Be Performed By Consultant (non-federally funded)	Others 100 %	Agency %
Construction Will Be Performed By Contractor	Contract 100 %	Agency %

Environmental Classification

- | | |
|--|--|
| <input type="checkbox"/> Class I - Environmental Impact Statement (EIS) | <input checked="" type="checkbox"/> Class II - Categorically Excluded (CE) |
| <input type="checkbox"/> Project Involves NEPA/SEPA Section 404 Interagency Agreement | <input checked="" type="checkbox"/> Projects Requiring Documentation (Documented CE) |
| <input type="checkbox"/> Class III - Environmental Assessment (EA) | |
| <input type="checkbox"/> Project Involves NEPA/SEPA Section 404 Interagency Agreements | |

Environmental Considerations

Agency City of Tumwater	Project Title Percival Creek Fish Passage Barrier Removal	Date 05/08/2023
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Right of Way
☐ No Right of Way Needed

* All construction required by the contract can be accomplished within the existing right of way.

☒ Right of Way Needed

☒ No Relocation

☐ Relocation Required
Utilities
☐ No utility work required

☐ All utility work will be completed prior to the start of the construction contract

☒ All utility work will be completed in coordination with the construction contract
Railroad
☒ No railroad work required

☐ All railroad work will be completed prior to the start of the construction contract

☐ All the railroad work will be completed in coordination with the construction contract

Description of Utility Relocation or Adjustments and Existing Major Structures Involved in the Project

The project will include the temporary relocation and replacement of all water, sewer, gas, telecom, and electric utility infrastructure within the project limits.

FAA Involvement

Is any airport located within 3.2 kilometers (2 miles) of the proposed project? ☐ Yes ☒ No

Remarks

This project has been reviewed by the legislative body of the administration agency or agencies, or it's designee, and is not inconsistent with the agency's comprehensive plan for community development.

Agency City of Tumwater

Date

By _____ Mayor/Chairperson

TO: City Council
FROM: Mary Heather Ames, Assistant Transportation & Engineering Director
DATE: July 18, 2023
SUBJECT: Local Agency Agreement and Prospectus with WSDOT for the Traffic Signal Controller and Detection Upgrade

1) Recommended Action:

Staff recommends the City Council approve and authorize the Mayor to sign the Local Agency Prospectus for the Traffic Signal Controller and Detection Upgrade project. The Local Agency Prospectus was recommended for approval by the Public Works Committee at their July 6, 2023, meeting.

2) Background:

In 2020, the City was awarded federal funding to complete the Traffic Signal Controller and Detection Upgrade project. This project updates equipment at various signalized intersections throughout the City with the goal of increased efficiency for road users – vehicle drivers, cyclists, and pedestrians.

3) Policy Support:

C. Create and maintain a transportation system safe for all modes of travel.

4) Alternatives:

- ☐ Do not authorize approval of the Agreement and inform Thurston Regional Planning Council we cannot meet the obligation commitment.
-

5) Fiscal Notes:

Local funds shown in the Local Agency Agreement Supplement and Local Agency Federal Aid Prospectus are programmed in the Transportation CFP.

6) Attachments:

- A. Local Agency Agreement
- B. Local Agency Federal Aid Prospectus

Item 6h.


**Washington State
Department of Transportation**

Agency City of Tumwater

Address 555 Israel Rd SW
Tumwater, WA 98501
Local Agency Agreement
CFDA No. 20.205 - Highway Planning and Construction
(Catalog of Federal Domestic Assistance)
Project No.**Agreement No.**

For WSDOT Use Only

The Local Agency having complied, or hereby agreeing to comply, with the terms and conditions set forth in (1) Title 23, U.S. Code Highways, (2) the regulations issued pursuant thereto, (3) 2 CFR Part 200, (4) 2 CFR Part 180 – certifying that the local agency is not excluded from receiving Federal funds by a Federal suspension or debarment, (5) the policies and procedures promulgated by the Washington State Department of Transportation, and (6) the federal aid project agreement entered into between the State and Federal Government, relative to the above project, the Washington State Department of Transportation will authorize the Local Agency to proceed on the project by a separate notification. Federal funds which are to be obligated for the project may not exceed the amount shown herein on line r, column 3, without written authority by the State, subject to the approval of the Federal Highway Administration. All project costs not reimbursed by the Federal Government shall be the responsibility of the Local Agency.

Project Description

Name Traffic Signal Controller and Detection Upgrade

Length

Termini

Description of Work

This project will replace the controllers and necessary associated hardware at eight intersections and will upgrade the detection equipment to current standard cameras at six intersections throughout Tumwater.

Project Agreement End Date December 31, 2027

Claiming Indirect Cost Rate

☐ Yes ☒ No

Proposed Advertisement Date

Type of Work		Estimate of Funding		
		(1) Estimated Total Project Funds	(2) Estimated Agency Funds	(3) Estimated Federal Funds
PE	a. Agency	40000	5400	34600
86.5 %	b. Other			
Federal Aid	c. Other			
Participation	d. State Services	1000	1000	
Ratio for PE	e. Total PE Cost Estimate (a+b+c+d)	41000	6400	34600
Right of Way	f. Agency			
%	g. Other			
Federal Aid	h. Other			
Participation	i. State Services			
Ratio for RW	j. Total R/W Cost Estimate (f+g+h+i)	0	0	0
Construction	k. Contract			
%	l. Other			
Federal Aid	m. Other			
Participation	n. Other			
Ratio for CN	o. Agency			
	p. State Services			
	q. Total CN Cost Estimate (k+l+m+n+o+p)	0	0	0
	r. Total Project Cost Estimate (e+j+q)	41000	6400	34600

Agency Official

By

Title TRANSPORTATION AND ENGINEERING DIRECTOR

Agency Date

Washington State Department of Transportation

By

Director, Local Programs

Date Executed

Construction Method of Financing (Check Method Selected)

State Ad and Award

Method A - Advance Payment - Agency Share of total construction cost (based on contract award)

Method B - Withhold from gas tax the Agency's share of total construction cost (line 5, column 2) in the amount of

\$ _____ at \$ _____ per month for _____ months.

Local Force or Local Ad and Award

Method C - Agency cost incurred with partial reimbursement

The Local Agency further stipulates that pursuant to said Title 23, regulations and policies and procedures, and as a condition to payment of the federal funds obligated, it accepts and will comply with the applicable provisions set forth below. Adopted by official action on _____, Resolution/Ordinance No. _____.

Provisions

I. Scope of Work

The Agency shall provide all the work, labor, materials, and services necessary to perform the project which is described and set forth in detail in the "Project Description" and "Type of Work."

When the State acts for and on behalf of the Agency, the State shall be deemed an agent of the Agency and shall perform the services described and indicated in "Type of Work" on the face of this agreement, in accordance with plans and specifications as proposed by the Agency and approved by the State and the Federal Highway Administration.

When the State acts for the Agency but is not subject to the right of control by the Agency, the State shall have the right to perform the work subject to the ordinary procedures of the State and Federal Highway Administration.

II. Delegation of Authority

The State is willing to fulfill the responsibilities to the Federal Government by the administration of this project. The Agency agrees that the State shall have the full authority to carry out this administration. The State shall review, process, and approve documents required for federal aid reimbursement in accordance with federal requirements. If the State advertises and awards the contract, the State will further act for the Agency in all matters concerning the project as requested by the Agency. If the Local Agency advertises and awards the project, the State shall review the work to ensure conformity with the approved plans and specifications.

III. Project Administration

Certain types of work and services shall be provided by the State on this project as requested by the Agency and described in the Type of Work above. In addition, the State will furnish qualified personnel for the supervision and inspection of the work in progress. On Local Agency advertised and awarded projects, the supervision and inspection shall be limited to ensuring all work is in conformance with approved plans, specifications, and federal aid requirements. The salary of such engineer or other supervisor and all other salaries and costs incurred by State forces upon the project will be considered a cost thereof. All costs related to this project incurred by employees of the State in the customary manner on highway payrolls and vouchers shall be charged as costs of the project.

IV. Availability of Records

All project records in support of all costs incurred and actual expenditures kept by the Agency are to be maintained in accordance with local government accounting procedures prescribed by the Washington State Auditor's Office, the U.S. Department of Transportation, and the Washington State Department of Transportation. The records shall be open to inspection by the State and Federal Government at all reasonable times and shall be retained and made available for such inspection for a period of not less than three years from the final payment of any federal aid funds to the Agency. Copies of said records shall be furnished to the State and/or Federal Government upon request.

V. Compliance with Provisions

The Agency shall not incur any federal aid participation costs on any classification of work on this project until authorized in writing by the State for each classification. The classifications of work for projects are:

1. Preliminary engineering.
2. Right of way acquisition.
3. Project construction.

Once written authorization is given, the Agency agrees to show continuous progress through monthly billings. Failure to show continuous progress may result the Agency's project becoming inactive, as described in 23 CFR 630, and subject to de-obligation of federal aid funds and/or agreement closure.

If right of way acquisition, or actual construction of the road for which preliminary engineering is undertaken is not started by the close of the tenth fiscal year following the fiscal year in which preliminary engineering phase was authorized, the Agency will repay to the State the sum or sums of federal funds paid to the Agency under the terms of this agreement (see Section IX).

If actual construction of the road for which right of way has been purchased is not started by the close of the tenth fiscal year following the fiscal year in which the right of way phase was authorized, the Agency will repay to the State the sum or sums of federal

funds paid to the Agency under the terms of this agreement (see Section IX).

The Agency agrees that all stages of construction necessary to provide the initially planned complete facility within the limits of this project will conform to at least the minimum values set by approved statewide design standards applicable to this class of highways, even though such additional work is financed without federal aid participation.

The Agency agrees that on federal aid highway construction projects, the current federal aid regulations which apply to liquidated damages relative to the basis of federal participation in the project cost shall be applicable in the event the contractor fails to complete the contract within the contract time.

VI. Payment and Partial Reimbursement

The total cost of the project, including all review and engineering costs and other expenses of the State, is to be paid by the Agency and by the Federal Government. Federal funding shall be in accordance with the Federal Transportation Act, as amended, 2 CFR Part 200. The State shall not be ultimately responsible for any of the costs of the project. The Agency shall be ultimately responsible for all costs associated with the project which are not reimbursed by the Federal Government. Nothing in this agreement shall be construed as a promise by the State as to the amount or nature of federal participation in this project.

The Agency shall bill the state for federal aid project costs incurred in conformity with applicable federal and state laws. The agency shall minimize the time elapsed between receipt of federal aid funds and subsequent payment of incurred costs. Expenditures by the Local Agency for maintenance, general administration, supervision, and other overhead shall not be eligible for federal participation unless a current indirect cost plan has been prepared in accordance with the regulations outlined in 2 CFR Part 200 - Uniform Admin Requirements, Cost Principles and Audit Requirements for Federal Awards, and retained for audit.

The State will pay for State incurred costs on the project. Following payment, the State shall bill the Federal Government for reimbursement of those costs eligible for federal participation to the extent that such costs are attributable and properly allocable to this project. The State shall bill the Agency for that portion of State costs which were not reimbursed by the Federal Government (see Section IX).

1. Project Construction Costs

Project construction financing will be accomplished by one of the three methods as indicated in this agreement.

Method A – The Agency will place with the State, within (20) days after the execution of the construction contract, an advance in the amount of the Agency's share of the total construction cost based on the contract award. The State will notify the Agency of the exact amount to be deposited with the State. The State will pay all costs incurred under the contract upon presentation of progress billings from the contractor. Following such payments, the State will submit a billing to the Federal Government for the federal aid participation share of the cost. When the project is substantially completed and final actual costs of the project can be determined, the State will present the Agency with a final billing showing the amount due the State or the amount due the Agency. This billing will be cleared by either a payment from the Agency to the State or by a refund from the State to the Agency.

Method B – The Agency's share of the total construction cost as shown on the face of this agreement shall be withheld from its monthly fuel tax allotments. The face of this agreement establishes the months in which the withholding shall take place and the exact amount to be withheld each month. The extent of withholding will be confirmed by letter from the State at the time of contract award. Upon receipt of progress billings from the contractor, the State will submit such billings to the Federal Government for payment of its participating portion of such billings.

Method C – The Agency may submit vouchers to the State in the format prescribed by the State, in duplicate, not more than once per month for those costs eligible for Federal participation to the extent that such costs are directly attributable and properly allocable to this project. Expenditures by the Local Agency for maintenance, general administration, supervision, and other overhead shall not be eligible for Federal participation unless claimed under a previously approved indirect cost plan.

The State shall reimburse the Agency for the Federal share of eligible project costs up to the amount shown on the face of this agreement. At the time of audit, the Agency will provide documentation of all costs incurred on the project. The State shall bill the Agency for all costs incurred by the State relative to the project. The State shall also bill the Agency for the federal funds paid by the State to the Agency for project costs which are subsequently determined to be ineligible for federal participation (see Section IX).

VII. Audit of Federal Consultant Contracts

The Agency, if services of a consultant are required, shall be responsible for audit of the consultant's records to determine eligible federal aid costs on the project. The report of said audit shall be in the Agency's files and made available to the State and the Federal Government.

An audit shall be conducted by the WSDOT Internal Audit Office in accordance with generally accepted governmental auditing standards as issued by the United States General Accounting Office by the Comptroller General of the United States; WSDOT Manual M 27-50, Consultant Authorization, Selection, and Agreement Administration; memoranda of understanding between WSDOT and FHWA; and 2 CFR Part 200.501 - Audit Requirements.

If upon audit it is found that overpayment or participation of federal money in ineligible items of cost has occurred, the Agency shall reimburse the State for the amount of such overpayment or excess participation (see Section IX).

VIII. Single Audit Act

The Agency, as a subrecipient of federal funds, shall adhere to the federal regulations outlined in 2 CFR Part 200.501 as well as all applicable federal and state statutes and regulations. A subrecipient who expends \$750,000 or more in federal awards from all sources during a given fiscal year shall have a single or program-specific audit performed for that year in accordance with the provisions of 2 CFR Part 200.501. Upon conclusion of the audit, the Agency shall be responsible for ensuring that a copy of the report is transmitted

promptly to the State.

IX. Payment of Billing

The Agency agrees that if payment or arrangement for payment of any of the State's billing relative to the project (e.g., State force work, project cancellation, overpayment, cost ineligible for federal participation, etc.) is not made to the State within 45 days after the Agency has been billed, the State shall effect reimbursement of the total sum due from the regular monthly fuel tax allotments to the Agency from the Motor Vehicle Fund. No additional Federal project funding will be approved until full payment is received unless otherwise directed by the Director, Local Programs.

Project Agreement End Date - This date is based on your projects Period of Performance (2 CFR Part 200.309).

Any costs incurred after the Project Agreement End Date are NOT eligible for federal reimbursement. All eligible costs incurred prior to the Project Agreement End Date must be submitted for reimbursement within 60 days after the Project Agreement End Date or they become ineligible for federal reimbursement.

X. Traffic Control, Signing, Marking, and Roadway Maintenance

The Agency will not permit any changes to be made in the provisions for parking regulations and traffic control on this project without prior approval of the State and Federal Highway Administration. The Agency will not install or permit to be installed any signs, signals, or markings not in conformance with the standards approved by the Federal Highway Administration and MUTCD. The Agency will, at its own expense, maintain the improvement covered by this agreement.

XI. Indemnity

The Agency shall hold the Federal Government and the State harmless from and shall process and defend at its own expense all claims, demands, or suits, whether at law or equity brought against the Agency, State, or Federal Government, arising from the Agency's execution, performance, or failure to perform any of the provisions of this agreement, or of any other agreement or contract connected with this agreement, or arising by reason of the participation of the State or Federal Government in the project, PROVIDED, nothing herein shall require the Agency to reimburse the State or the Federal Government for damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of the Federal Government or the State.

XII. Nondiscrimination Provision

No liability shall attach to the State or Federal Government except as expressly provided herein.

The Agency shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract and/or agreement or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Agency shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts and agreements. The WSDOT's DBE program, as required by 49 CFR Part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Agency of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

The Agency hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the rules and regulations of the Secretary of Labor in 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee or understanding pursuant to any federal program involving such grant, contract, loan, insurance, or guarantee, the required contract provisions for Federal-Aid Contracts (FHWA 1273), located in Chapter 44 of the Local Agency Guidelines.

The Agency further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, that if the applicant so participating is a State or Local Government, the above equal opportunity clause is not applicable to any agency, instrumentality, or subdivision of such government which does not participate in work on or under the contract.

The Agency also agrees:

- (1) To assist and cooperate actively with the State in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and rules, regulations, and relevant orders of the Secretary of Labor.
- (2) To furnish the State such information as it may require for the supervision of such compliance and that it will otherwise assist the State in the discharge of its primary responsibility for securing compliance.
- (3) To refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, government contracts and federally assisted construction contracts pursuant to the Executive Order.
- (4) To carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the State, Federal Highway Administration, or the Secretary of Labor pursuant to Part II, subpart D of the Executive Order.

In addition, the Agency agrees that if it fails or refuses to comply with these undertakings, the State may take any or all of the following actions:

- (a) Cancel, terminate, or suspend this agreement in whole or in part;
- (b) Refrain from extending any further assistance to the Agency under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from the Agency; and

(c) Refer the case to the Department of Justice for appropriate legal proceedings.

XIII. Liquidated Damages

The Agency hereby agrees that the liquidated damages provisions of 23 CFR Part 635, Subpart 127, as supplemented, relative to the amount of Federal participation in the project cost, shall be applicable in the event the contractor fails to complete the contract within the contract time. Failure to include liquidated damages provision will not relieve the Agency from reduction of federal participation in accordance with this paragraph.

XIV. Termination for Public Convenience

The Secretary of the Washington State Department of Transportation may terminate the contract in whole, or from time to time in part, whenever:

- (1) The requisite federal funding becomes unavailable through failure of appropriation or otherwise.
- (2) The contractor is prevented from proceeding with the work as a direct result of an Executive Order of the President with respect to the prosecution of war or in the interest of national defense, or an Executive Order of the President or Governor of the State with respect to the preservation of energy resources.
- (3) The contractor is prevented from proceeding with the work by reason of a preliminary, special, or permanent restraining order of a court of competent jurisdiction where the issuance of such order is primarily caused by the acts or omissions of persons or agencies other than the contractor.
- (4) The Secretary is notified by the Federal Highway Administration that the project is inactive.
- (5) The Secretary determines that such termination is in the best interests of the State.

XV. Venue for Claims and/or Causes of Action

For the convenience of the parties to this contract, it is agreed that any claims and/or causes of action which the Local Agency has against the State of Washington, growing out of this contract or the project with which it is concerned, shall be brought only in the Superior Court for Thurston County.

XVI. Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying

The approving authority certifies, to the best of his or her knowledge and belief, that:

- (1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit the Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, and contracts and subcontracts under grants, subgrants, loans, and cooperative agreements) which exceed \$100,000, and that all such subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification as a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

XVII. Assurances

Local agencies receiving Federal funding from the USDOT or its operating administrations (i.e., Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration) are required to submit a written policy statement, signed by the Agency Executive and addressed to the State, documenting that all programs, activities, and services will be conducted in compliance with Section 504 and the Americans with Disabilities Act (ADA).

Additional Provisions

Instructions

1. **Agency Name and Billing Address** – Enter the Agency of primary interest which will become a party to the agreement.
2. **Project Number** – Leave blank. This number will be assigned by WSDOT.
3. **Agreement Number** – Leave blank. This number will be assigned by WSDOT.
4.
 - a. **Project Description** – Enter the project name, total length of the project (in miles), and a brief description of the termini. Data entered here must be consistent with the name, length, and termini noted in the STIP and Project Prospectus
Example: (Name) "Regal Road", (Length) "1.2 miles", (Termini) "Smith Road to Main Street"
 - b. **Description of Work** – Enter a concise statement of the major items of work to be performed. Statement must be consistent with the description of work noted in the STIP and Project Prospectus.
Example: "Overlay Regal Road; install curb, gutter, and sidewalk; illumination; and traffic signal at the intersection of Regal Road and Dakota Avenue."
 - c. **Project Agreement End Date** – Enter the Project Agreement End Date (mm/dd/yy). This date is based on the project's Period of Performance (2 CFR 200.309).
 For Planning Only projects – WSDOT recommends agencies estimate the end of the project's period of performance and add three years to determine the "Project Agreement End Date".
 For PE and RW – WSDOT recommends agencies estimate when the phase will be completed and add three years to determine the "Project Agreement End Date". For Construction – WSDOT recommends agencies estimate when construction will be completed and add three years to determine the "Project Agreement End Date".
 - d. **Proposed Advertisement Date** – At construction authorization only, enter the proposed project advertisement date (mm/dd/yy).
 - e. **Claiming Indirect Cost Rate** – Check the Yes box if the agency will be claiming indirect costs on the project. For those projects claiming indirect costs, supporting documentation that clearly shows the indirect cost rate being utilized must be provided with the local agency agreement. Indirect cost rate approval by your cognizant agency or through your agency's self-certification and supporting documentation is required to be available for review by FHWA, WSDOT and /or State Auditor. Check the No box if the agency will not be claiming indirect costs on the project. See section 23.5 for additional guidance.
4. **Type of Work and Funding (Round all dollar amounts to the nearest whole dollar)**
 - a. **PE** – Lines a through d show Preliminary Engineering costs for the project by type of work (e.g., consultant, agency, state services, etc.).
 *Federal aid participation ratio for PE – enter ratio for PE lines with amounts in column 3.
 - **Line a** – Enter the estimated amount of agency work in columns 1 through 3.
 - **Line b & c** – Identify user, consultant, etc., and enter the estimated amounts in columns 1 through 3.
 - **Line d** – State Services. Every project must have funding for state services. Enter the estimated amounts in columns 1 through 3.
 - **Line e** – Total of lines a + b + c + d.
 - b. **Right of Way** – If a Right of Way phase is authorized on the project, the appropriate costs are shown in lines f through i.
 *Federal aid participation ratio for RW – enter ratio for RW lines with amounts in column 3.
 - **Line f** – Enter the estimated amount of agency work in columns 1 through 3.
 - **Line g & h** – Identify user, consultant, etc., and enter the estimated amounts in columns 1 through 3.
 - **Line i** – State Services. Every project must have funding for state services. Enter the estimated amounts in columns 1 through 3.
 - **Line j** – Total of lines f + g + h + i.
 - c. **Construction** – Lines k through p show construction costs for the project by type of work (e.g., contract, consultant, agency, state services, etc.).
 *Federal aid participation ratio for CN – enter ratio for CN lines with amounts in column 3.

- **Line k** – Enter the estimated cost of the contract.
- **Lines l, m, & n** – Enter other estimated costs such as utility and construction contracts or non-federally matched contract costs.
- **Line o** – Enter estimated costs of all construction related agency work.
- **Line p** – State Services. Every project must have funding for state services. Enter the estimated amounts in columns 1 through 3.
- **Line q** – Total Construction Cost Estimate. Total of lines k + l + m + n + o + p.

d. **Total Project Cost Estimate**

- **Line r** – Total Cost Estimate of the Project. Total of lines e + j + q.

*Please remember, if the federal aid participation rate entered is not the maximum rate allowed by FHWA, then the participation rate entered becomes the maximum rate allowed.

6. **Signatures** – An authorized official of the local agency signs the agreement and enters their title and date of signature (mm/dd/yy). **Note:** Do NOT enter a date on the Date Executed line.
7. **Method of Construction Financing** – Choose the method of financing for the construction portion of the project.
 - a. **Method “A”** is used when the state administers the contract for the agency.
 - b. **Method “B”** is also used when the state administers the contract for the agency.
 - c. **Method “C”** is used with projects administered by the local agency. The agency will submit billings monthly through the state to FHWA for all eligible costs. The billings must document the payment requests from the contractor. If state-force work, such as audit and construction engineering, is to receive federal participation, it will be billed to the agency and FHWA simultaneously at the indicated ratio. To show continuous progress agencies should bill monthly until agreement is closed.
8. **Resolutions/Ordinances** – When someone other than the County Executive/Chairman, County Commissioners/Mayor is authorized to sign the agreement, the agency must submit to WSDOT with the agreement a copy of the Resolution/Ordinance designating that individual.
9. **Parties to the Agreement** – Submit one originally signed agreement form to the Region Local Programs Engineer. It is the responsibility of the local agency to submit an additional, originally signed agreement form if they need an executed agreement for their files. The agreement is first executed by the agency official(s) authorized to enter into the agreement. It is then transmitted to the state for execution by Local Programs. The agreement is dated at the time of final execution by Local Programs.


**Washington State
Department of Transportation**
**Local Agency Federal Aid
Project Prospectus**

	Prefix	Route	()	Date	
Federal Aid Project Number				DUNS Number	
Local Agency Project Number		(WSDOT Use Only)		Federal Employer Tax ID Number	91-6001520

Agency City of Tumwater		CA Agency <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Federal Program Title <input checked="" type="checkbox"/> 20.205 <input type="checkbox"/> Other		
Project Title Traffic Signal Controller and Detection Upgrade		Start Latitude N Varies End Latitude N Varies		Start Longitude W Varies End Longitude W Varies	
Project Termini From-To Varies		Nearest City Name Tumwater		Project Zip Code (+4) Varies	
Begin Mile Post	End Mile Post	Length of Project		Award Type <input checked="" type="checkbox"/> Local <input type="checkbox"/> Local Forces <input type="checkbox"/> State <input type="checkbox"/> Railroad	
Route ID	Begin Mile Point	End Mile Point	City Number 1325	County Number 34	County Name Thurston
WSDOT Region Olympic Region	Legislative District(s) 22		Congressional District(s) 10		Urban Area Number 6

Phase	Total Estimated Cost (Nearest Hundred Dollar)	Local Agency Funding (Nearest Hundred Dollar)	Federal Funds (Nearest Hundred Dollar)	Phase Start Date	
P.E.	40,000	5,400	34,600	Month JUNE	Year 2023
R/W					
Const.	310,000	41,900	268,200		
Total	350,000	47,300	302,800		

Description of Existing Facility (Existing Design and Present Condition)	
Roadway Width	Number of Lanes

Description of Proposed Work
Description of Proposed Work (Attach additional sheet(s) if necessary)
This project will replace the controllers and necessary associated hardware at eight intersections and will upgrade the detection equipment to current standard cameras at six intersections throughout Tumwater.

Local Agency Contact Person Brandon Hicks		Title Director		Phone 360-754-4140	
Mailing Address 555 Israel Rd SW		City Tumwater		State WA	Zip Code 98501
Project Prospectus	By _____				
	Approving Authority				
	Title Transportation and Engineering Director				Date

Agency City of Tumwater	Project Title Traffic Signal Controller and Detection Upgrade	Date
----------------------------	--	------

Type of Proposed Work

Project Type (Check all that Apply)

- | | | |
|--|--|--------------------------------|
| <input checked="" type="checkbox"/> New Construction | <input type="checkbox"/> Path / Trail | <input type="checkbox"/> 3-R |
| <input type="checkbox"/> Reconstruction | <input type="checkbox"/> Pedestrian / Facilities | <input type="checkbox"/> 2-R |
| <input type="checkbox"/> Railroad | <input type="checkbox"/> Parking | <input type="checkbox"/> Other |
| <input type="checkbox"/> Bridge | | |

Roadway Width

Number of Lanes

Geometric Design Data

Description	Through Route	Crossroad
Federal Functional Classification	<input type="checkbox"/> Principal Arterial	<input type="checkbox"/> Principal Arterial
	<input type="checkbox"/> Minor Arterial	<input type="checkbox"/> Minor Arterial
	<input type="checkbox"/> Collector	<input type="checkbox"/> Collector
	<input type="checkbox"/> Major Collector	<input type="checkbox"/> Major Collector
	<input type="checkbox"/> Minor Collector	<input type="checkbox"/> Minor Collector
	<input type="checkbox"/> Local Access	<input type="checkbox"/> Local Access
<input type="checkbox"/> Urban	<input type="checkbox"/> Urban	
<input type="checkbox"/> Rural	<input type="checkbox"/> Rural	
<input type="checkbox"/> NHS	<input type="checkbox"/> NHS	
Terrain	<input type="checkbox"/> Flat <input type="checkbox"/> Roll <input type="checkbox"/> Mountain	<input type="checkbox"/> Flat <input type="checkbox"/> Roll <input type="checkbox"/> Mountain
Posted Speed		
Design Speed		
Existing ADT		
Design Year ADT		
Design Year		
Design Hourly Volume (DHV)		

Performance of Work

Preliminary Engineering Will Be Performed By

Agency

Others

Agency

%

100

%

Construction Will Be Performed By

Contractor

Contract

Agency

100 %

%

Environmental Classification

- | | |
|--|--|
| <input type="checkbox"/> Class I - Environmental Impact Statement (EIS) | <input checked="" type="checkbox"/> Class II - Categorical Excluded (CE) |
| <input type="checkbox"/> Project Involves NEPA/SEPA Section 404 Interagency Agreement | <input checked="" type="checkbox"/> Projects Requiring Documentation (Documented CE) |
| <input type="checkbox"/> Class III - Environmental Assessment (EA) | |
| <input type="checkbox"/> Project Involves NEPA/SEPA Section 404 Interagency Agreements | |

Environmental Considerations

Agency City of Tumwater	Project Title Traffic Signal Controller and Detection Upgrade	Date
----------------------------	--	------

Right of Way

- | | |
|---|---|
| <input checked="" type="checkbox"/> No Right of Way Needed
* All construction required by the contract can be accomplished within the existing right of way. | <input type="checkbox"/> Right of Way Needed
<input type="checkbox"/> No Relocation <input type="checkbox"/> Relocation Required |
|---|---|

Utilities

- ☐ No utility work required
☐ All utility work will be completed prior to the start of the construction contract
☒ All utility work will be completed in coordination with the construction contract

Railroad

- ☒ No railroad work required
☐ All railroad work will be completed prior to the start of the construction contract
☐ All the railroad work will be completed in coordination with the construction contract

Description of Utility Relocation or Adjustments and Existing Major Structures Involved in the Project

Existing loop detection will be cut at the junction box. Existing conduits will be used for new detection equipment between signal and controller.

FAA Involvement

Is any airport located within 3.2 kilometers (2 miles) of the proposed project? ☒ Yes ☐ No

Remarks

The project will not impact the airport

This project has been reviewed by the legislative body of the administration agency or agencies, or it's designee, and is not inconsistent with the agency's comprehensive plan for community development.

Agency City of Tumwater

Date

By _____ Mayor/Chairperson

TO: City Council
FROM: Brad Medrud, Planning Manager
DATE: July 18, 2023
SUBJECT: Service Provider Agreement Amendment Two for Tree and Vegetation Preservation Code Update

1) Recommended Action:

Approve the attached Amendment Two to the Service Provider Agreement for signature by the Mayor.

2) Background:

The next step in the implementation of the *Urban Forestry Management Plan* is the preparation of an update to the City's tree preservation regulations found in TMC 16.08 *Protection of Trees and Vegetation*.

The update process involved hiring a consultant, DCG/Watershed, to work with staff, stakeholders, and the Tree Board, Planning Commission, and City Council to update the City's tree and vegetation preservation regulations, as well as review and update other relevant City development guides, plans, and manuals.

The project started in October 2022 with the development of the Public Engagement Plan for the project. Public engagement efforts were launched in the fall of 2022. They included a project website, community survey, and external stakeholder meetings called Community Conversations. The project team also developed a Gap Analysis that looked at the City's current tree preservation regulations.

In the fall of 2022 and winter of 2023, the community survey, community conversation and internal stakeholder meetings, and initial worksessions with the Planning Commission and Tree Board were completed. Based on the information gathered as part of that process, DCG/Watershed and staff developed draft amendments to TMC 16.08 for review by the Planning Commission and Tree Board.

As staff was starting the next phase of the 2022-23 City of Tumwater's urban forestry update, staff identified an issue related to the Washington Wildland-Urban Interface Code (WWUIC) that was recently developed by the State Building Code Council. There are potential conflicts between the new WWUIC requirements and both our current urban forestry regulations and our proposed amendments to those codes.

After conversations with the Mayor and members of the City Council, work on the three urban forestry regulatory amendments on a temporary hold as staff does more research and develops a comprehensive strategy to respond to the WWUIC requirements.

Amendment Two to the service provider agreement will cover additional services and extend the term of the agreement.

The General Government Committee were briefed on this item at their June 14, 2023 meeting and recommended City Council approval.

3) Policy Support:

Conservation Element Policy C-1.1: Protect the ecological integrity of the natural environment while allowing for compatible growth and development.

Conservation Element Policy C-1.5: Maximize retention of a healthy tree cover and native vegetation and encourage restoration, replacement, and enhancement of unhealthy trees and disturbed vegetation.

Land Use Element Implementation Policy 16: Implement the Urban Forestry Management Plan through the municipal code, Development Guidelines, City employee processes, and community education and engagement.

4) Alternatives:

☐ None

5) Fiscal Notes:

Internally funded.

6) Attachments:

- A. Tree and Vegetation Preservation Code Update Service Provider Agreement Amendment Two
- B. Tree and Vegetation Preservation Code Update Service Provider Agreement Amendment Two Exhibit

**SECOND AMENDMENT
TO
CITY OF TUMWATER
SERVICE PROVIDER AGREEMENT**

2022-23 TREE AND VEGETATION PRESERVATION AMENDMENTS

This Second Amendment ("Amendment") is dated effective this _____ day of _____, 2023, and is entered into by and between the CITY OF TUMWATER, a Washington municipal corporation ("CITY"), and DCG/Watershed, a Washington corporation ("SERVICE PROVIDER").

A. The CITY and the SERVICE PROVIDER entered into a Service Provider Agreement dated effective June 28, 2022, amended by the first amendment dated effective February 8, 2023, whereby the SERVICE PROVIDER agreed to provide tree and vegetation preservation amendment services ("Agreement").

B. Section 14 of the Agreement provided that the Agreement may only be amended by written agreement signed by the parties.

C. The CITY and the SERVICE PROVIDER desire to amend the Agreement to add additional services, extend the term, and increase the compensation paid to the SERVICE PROVIDER for providing the additional services during the extended term of the Agreement.

NOW, THEREFORE, the parties agree to the following terms and conditions:

1. SCOPE OF SERVICES.

Section 1 of the Agreement is amended to provide for additional services as more particularly described and detailed in Exhibit "A-1," attached hereto and incorporated herein.

2. TERM.

Section 2 of the Agreement is amended to extend the term of the Agreement until June 28, 2024.

3. COMPENSATION.

In consideration of the SERVICE PROVIDER providing the additional services described in Exhibit "A-1", during the extended term of the Agreement, Section 4.C. shall be amended to increase the compensation paid to the SERVICE PROVIDER by

an additional amount of SEVENTEEN THOUSAND NINE HUNDRED TWENTY-EIGHT DOLLARS (\$17,928.00). The total amount payable to the SERVICE PROVIDER pursuant to the original Agreement, the First Amendment, and this Second Amendment shall be an amount not to exceed ONE HUNDRED THIRTEEN THOUSAND EIGHT HUNDRED FORTY-NINE DOLLARS AND SEVENTY-EIGHT CENTS (\$113,849.78).

4. FULL FORCE AND EFFECT.

All other terms and conditions of the Agreement not modified by this Amendment shall remain in full force and effect.

DATED the effective date set forth above.

CITY:

CITY OF TUMWATER
555 Israel Road SW
Tumwater, WA 98501

APPROVED AS TO FORM:

DEBBIE SULLIVAN
Mayor

KAREN KIRKPATRICK
City Attorney

SERVICE PROVIDER:

DCG/WATERSHED
750 6th Street
Kirkland, WA 98033
Tax ID: 91-1364393
Phone: (425) 822-8242

Signature (Notarized – see below)
Printed Name: Hugh Mortensen
Title: President

STATE OF WASHINGTON

COUNTY OF _____

I certify that I know or have satisfactory evidence that _____
is the person who appeared before me, and said person acknowledged that (he/she)
signed this instrument, on oath stated that (he/she) was authorized to execute the
instrument and acknowledged it as the _____ of _____
_____ to be the free and voluntary act of such party for the uses and purposes
mentioned in the instrument.

Dated: _____

Notary Public in and for the State of Washington
My appointment expires _____

Exhibit “A-1”

(Contract Amendment (A-2), June 20, 2023)



Attachment B

6/20/2023

Brad Medrud, AICP
 Long Range Planning Manager
 City of Tumwater
 555 Israel Road SW
 Tumwater, WA 98501
 Via email: BMedrud@ci.tumwater.wa.us

**Re: Contract Amendment (A-2) for Continued Consulting Services – TMC 16.08
 Tree and Vegetation Preservation Amendments (DCG/Watershed Project #220421)**

Dear Brad,

Thank you for requesting a proposal for continued consulting and a contract extension for updates to Tumwater Municipal Code (TMC) 16.08 *Preservation of trees and vegetation*. We look forward to the opportunity to continue supporting the City with this effort.

Due to a shift in the schedule for City Council worksessions and consideration coupled with the additional time needed to address TMC 16.08 amendments, it is our understanding that the City would like to extend the contract through February 28, 2024. The following Scope of Services includes the list of tasks associated with extending the contract, new deliverables, and proposal assumptions. This amendment would be billed at our 2023 billing rates (see attachment).

Task 1. Project Administration

The extension of the contract dates and meeting attendance will also require additional project administration for general coordination and billing. We have added hours and budget to extend project management through February 2024.

Task 4. Prepare Ordinance Update

To date, DCG/Watershed staff provided two drafts of amendments to TMC 16.08 and provided feedback on revisions to the proposed amendments completed by the City. This contract amendment will cover time needed to address outstanding issues including discussion of the impact of the International Wildland Urban Interface Code, adopted by the State Building Code Council in April 2023. This deliverable includes the following:

- Review background documentation and International Wildland Urban Interface Code

Seattle

9706 4th Ave NE, Ste 300
 Seattle, WA 98115
 Tel 206.523.0024

Kirkland

750 6th Street
 Kirkland, WA 98033
 Tel 425.822.5242

Mount Vernon

2210 Riverside Dr, Ste 110
 Mount Vernon, WA 98273
 Tel 360.899.1110

Whidbey

1796 E Main St, Ste 105
 Freeland, WA 98249
 Tel 360.331.4131

Federal Way

31620 23rd Ave S, Ste 307
 Federal Way, WA 98003
 Tel 253.237.7770

Spokane

601 Main Ave, Ste 617
 Spokane, WA 99201
 Tel 509.606.3600

- Participate in one two-hour meeting with City staff to discuss code review and implications for TMC 16.08.
- Review and comments on a 5th draft of amendments to TMC 16.08 prepared by City staff and final draft ordinance developed by City staff.

Task 5. Formal amendment approval process

The original contract will cover attendance and City staff support for the Joint Tree Board and Planning Commission work sessions through October of 2023 for a total of eight (8) meetings – five (5) of which have already been accomplished to date. This contract amendment will provide support virtually attending up to five (5) additional meetings as outlined in your email dated 6/7/2023. We recognize that the exact dates are subject to change:

- October 24, 2023 – Planning Commission hearing
- January 10, 2024 – General Government Committee (GGC) briefing
- January 23, 2024 – City Council worksession
- February 13, 2024 – City Council worksession
- February 20, 2024 – City Council consideration

The cost of each additional work session and the Planning Commission hearing is based on attendance by two DCG/Watershed staff for most meetings and support to develop and/or review content for agenda packets and presentations. We are assuming only one DCG/Watershed staff member would be needed for the GGC briefing and City Council consideration.

Our fees for this Scope of Services are detailed in the enclosed budget. We look forward to working with you to move this project forward. If you have any questions about this proposal, please do not hesitate to call.

Sincerely,



Kimberly Frappier
Environmental Planner / Urban Forester



Dan Nickel
Executive Vice President/Director of Planning

Enclosures:
Budget Addendum
2023 Billing Rates

Proposal Assumptions

1. *This proposal includes general coordination with the project team via email and phone. In-person meetings with the project team and/or jurisdictional agencies are not included.*
2. *Time may be transferred from one task to another due to greater or lesser level of effort, provided that each task shall be completed and the total budget shall not be exceeded.*
3. *This proposal assumes that City staff will be responsible for developing the final ordinance for City Council consideration.*

Budget Addendum Breakout by Staff Member and Task

			Dan Nickel, MSc	Kim Frappier	Devin Melville	Debra Klein		
Task	Subtask	Description	\$220	\$167	\$130	\$120	Total Cost	
			DN	KF	DM	DK		
1	Project Administration and Coordination							
	1.A-2	General Project Administration and Coordination, Billing and Monthly Progress Reports	2.00	3.00		1.00	\$1,063	
Task Subtotal							\$	1,063
2	Public Engagement Plan Development							N/A
3	Implement Public Engagement Plan							N/A
4	Prepare Ordinance Update							
	4.A-2	Review and Comments on Draft 5 and Final Version of Amendments; Wildland Urban Interface Code Review; One work session with City staff to discuss Draft 5 amendments.	2.00	30.00	30.00		\$9,369	
Task Subtotal							\$	9,369
5	Formal amendment approval process							
	5.A-2	Attend and support an additional five virtual public briefings and work sessions with Tree Board, Planning Commission, City Council, and General Govt Committee. (Assumes 3-hr meetings)		15.00	9.00		\$3,683	
		Assist with Staff Reports and Presentation Decks		10.00	5.00		\$2,325	
		Assist staff in responding to comments		5.00	5.00		\$1,488	
Task Subtotal							\$	7,496
CONTRACT AMMENDMENT TOTAL							\$	17,928

DCG/Watershed 2023 Staff Billing Rates

INITIALS	STAFF NAME	TITLE	HOURLY RATE
DN	Dan Nickel, MSc	Environmental Engineer	\$220.22
HM	Hugh Mortensen, PWS	Senior Ecologist	\$220.22
JKB	J. Kenny Booth, AICP	Senior Planner	\$220.22
AW	Al Wald, LHg	Senior Hydrogeologist	\$205.20
AMC	Amber Mikluscak Champoux, PLA, GISP	Senior Landscape Architect/GIS Manager	\$194.40
GJ	Greg Johnston, EIT, CFP, MSc	Senior Fisheries Biologist	\$183.60
NL	Nell Lund, PWS	Ecologist	\$183.60
RK	Ryan Kahlo, PWS	Ecologist	\$183.60
MD	Mark Daniel, AICP	Associate Planner/GIS Specialist	\$183.60
MF	Marina French, PLA	Landscape Architect	\$175.12
KF	Kim Frappier	Environmental Planner/Arborist	\$167.40
CM	Colin Macdonald	Restoration Biologist	\$167.40
CM	Clover McInalls, PWS	Environmental Planner	\$162.00
PH	Peter Heltzel	Fisheries Biologist	\$162.00
KC	Katy Crandall	Ecologist/Arborist	\$162.00
KB	Kyle Braun	Landscape Architect/Arborist	\$155.27
AC	Alex Capron, AICP	Planner/GIS Specialist	\$151.20
AAM	April Mulcahy	Ecological Designer/Arborist	\$150.13
RH	Roan Hohlfeld	Landscape Designer/Ecologist	\$145.80
DSP	Dawn Spilsbury	GIS Analyst / FAA Licensed Drone Pilot	\$140.40
SEP	Sam E. Payne	Ecologist	\$140.40
AP	Alex Plumb	Environmental Planner	\$125.00
DF	Drew Foster	Arborist	\$135.38
AS	Amanda Sanelli	Landscape Designer	\$130.22
LFW	Lars Freeman-Wood	Arborist	\$125.17
EE	Evan Earhart	Arborist	\$118.00
DM	Devin Melville	Environmental Planner	\$130.22
FH	Fern Huynh	Landscape Designer	\$118.22
NB	Nathan Burroughs	GIS Analyst/Environmental Scientist	\$127.72
GB	Grace Brennan	Ecologist	\$124.20
BH	Brianna Hines	Environmental Planner	\$124.20
DJ	David Jackson	Environmental Planner	\$121.06
HC	Hui Cao	Landscape Designer	\$120.96
BM	Betsy Mann	Marketing Manager	\$115.04
DK	Debra Klein	Accountant	\$120.22
BT	Brooke Taylor	Project Administrator	\$115.04
LO	Lexi Ochoa	Arborist	\$120.15
ARM	Angela R. Mele	Interpretive Planner	\$121.23
SY	Sage Yuasa	Ecologist	\$113.40
JK	Justin Kay	Ecologist	\$108.18
AKM	Anna Murphy	Ecologist	\$105.10
LK	Laura Keil	Landscape Designer	\$113.40
JER	Jesse Rogers	Arborist	\$97.20
AT	Anna Tono	Marketing Coordinator	\$81.00

TO: City Council
 FROM: Lisa Parks, City Administrator
 DATE: July 18, 2023
 SUBJECT: Interagency Reimbursement Agreement IAA24138 Between Washington State Administrative Office of the Courts and City of Tumwater

1) Recommended Action:

Pass a motion authorizing signature of the Interagency Reimbursement Agreement IAA24138 Between Washington State Administrative Office of the Courts and the City of Tumwater, in substantially similar form as approved by the City Attorney.

2) Background:

State v. Blake is a 2021 Washington State Supreme Court decision that ruled the felony drug possession law unconstitutional. Someone convicted of simple possession of a controlled substance under RCW 69.50.4013 (and its predecessor statutes) may be eligible to have their conviction vacated and a refund of any legal financial obligations (LFOs) paid on these cases. The Legislature has provided limited reimbursement opportunities to cities both for the LFOs and also any extraordinary costs associated with identification and resentencing. The proposed agreement would provide for that reimbursement from the State through June 30, 2024.

3) Policy Support:

VISION | MISSION | BELIEFS

Partnership | We work collaboratively with residents, businesses, and community organizations. We also actively partner with other jurisdictions to address regional, state, and even broader issues.

4) Alternatives:

☐ Do not authorize signature of the Agreement.

5) Fiscal Notes:

The financial exposure to the City for prosecution, court and public defense time is unknown, along with the exposure for refunding legal financial obligations for those convictions or sentences impacted by the Blake decision. This agreement would provide up to \$12,084 in reimbursement for the extraordinary judicial, prosecutorial, and/or defense-related costs of resentencing and vacating the sentences of individuals whose convictions or sentences are affected by the Blake decision. This includes language from Engrossed Substitute Senate Bill 5187, Section 114(13) passed by the 2023 Legislature, which includes simple drug possession, to include cannabis and possession of paraphernalia. As these are pass-through funds, there is no need for a budget amendment.

6) Attachments:

A. Interagency Reimbursement Agreement IAA24138 Between Washington State Administrative Office of the Courts and the City of Tumwater

INTERAGENCY REIMBURSEMENT AGREEMENT IAA24138
BETWEEN
WASHINGTON STATE ADMINISTRATIVE OFFICE OF THE COURTS
AND
CITY OF TUMWATER

THIS REIMBURSEMENT AGREEMENT ("Agreement") is entered into by and between the Administrative Office of the Courts ("AOC") and CITY OF TUMWATER ("Jurisdiction") to reimburse CITY OF TUMWATER for the extraordinary costs of resentencing and vacating sentences as required by *State v. Blake* ("Blake").

I. PURPOSE

The purpose of this Agreement is to reimburse Jurisdiction for the extraordinary judicial, prosecutorial, and/or defense-related costs of resentencing and vacating the sentences of individuals whose convictions or sentences are affected by the *Blake* decision. For municipalities, this will include language from Engrossed Substitute Senate Bill 5187, Section 114(13) passed by the 2023 Legislature, which includes simple drug possession, to include cannabis and possession of paraphernalia.

II. REIMBURSEMENT

Extraordinary Expenses Reimbursement. AOC shall reimburse Jurisdiction up to a maximum of \$ \$28,795.00 for the extraordinary judicial, prosecutorial, and/or defense-related costs (collectively, "Costs") of resentencing and vacating the sentences of individuals whose convictions and/or sentences are affected by the *Blake* decision. Municipalities should be advised, the Washington Legislature passed Engrossed Substitute Senate Bill 5187, Section 114(13), which requires vacating of cannabis and possession of paraphernalia.

A. To be eligible for reimbursement, the Costs must be incurred between July 1, 2023 and June 30, 2024. AOC will not reimburse Jurisdiction for Costs incurred after June 30, 2024. AOC may, at its sole discretion, deny reimbursement requests in excess of the amount awarded. If additional funding is or becomes available for these purposes, AOC and Jurisdiction may mutually agree to increase the amount awarded under this Agreement.

B. General. AOC shall reimburse Jurisdiction for approved and completed reimbursements by warrant or electronic funds transfer within 30 days of receiving a properly completed A-19 invoice and the necessary backup documentation.

III. PERIOD OF PERFORMANCE

Performance under this Agreement begins **July 1, 2023**, regardless of the date of execution, and ends on **June 30, 2024**. The period of performance may be amended by mutual agreement of the Parties.

IV. TERMS OF REIMBURSEMENT

A. Jurisdiction shall electronically submit, once per month, its A-19 invoices to Payables@courts.wa.gov.

B. Jurisdiction's A-19 invoices must include:

1. Payment documents from Jurisdiction indicating the amounts expended, the recipients, and the date of expenditure;
2. A list of any case numbers associated with the services provided;
3. A breakdown of expenses by judicial, prosecutorial, and defense-related costs;
4. Any employee positions supported by Blake related funds, broken down by judicial, prosecutorial, and defense-related positions, including name of employee, title, hourly wage of the individual, time spent on *Blake*-related cases and a list of corresponding cause numbers;
5. The unique three-digit court code for the Jurisdiction the work was completed on behalf of must be provided on the A-19. If a Jurisdiction contracts with another jurisdiction to provide court services, then the unique court code for the jurisdiction for which the work was completed must be provided; and
6. Data, including case numbers and aggregate data on the number and type of cases:
 - a. Vacated under *Blake*;
 - b. Resentenced under *Blake*; and
 - c. Being worked on under *Blake*.

V. AGREEMENT ALTERATIONS AND AMENDMENTS

This Agreement may be amended by agreement of the Parties. Such amendments are not binding unless they are in writing and signed by personnel authorized to bind each of the Parties.

VI. GOVERNANCE

A. This Agreement is entered into pursuant to and under the authority

granted by the laws of the state of Washington and any applicable federal laws. The provisions of this Agreement must be construed to conform to those laws.

B. In the event of an inconsistency in the terms of this Agreement, or between its terms and any applicable statute or rule, the inconsistency will be resolved by giving precedence in the following order:

1. Applicable state and federal statutes and rules;
2. This Agreement; and then
3. Any other provisions of the Agreement, including materials incorporated by reference.

VII. WAIVER

A failure by either Party to exercise its rights under this Agreement does not preclude that Party from subsequent exercise of such rights and is not a waiver of any other rights under this Agreement unless stated to be such in a writing signed by an authorized representative of the Party and attached to the original Agreement.

VIII. SEVERABILITY

If any provision of this Agreement, or any provision of any document incorporated by reference is held invalid, such invalidity does not affect the other provisions of this Agreement that can be given effect without the invalid provision and to this end the provisions of this Agreement are declared to be severable.

IX. AGREEMENT MANAGEMENT

The Program Managers/Point of Contacts noted below are responsible for and are the contact people for all communications and billings regarding the performance of this Agreement:

AOC Program Manager	Jurisdiction Program Manager/Point of Contact
Sharon Swanson Blake Implementation Manager PO Box 41170 Olympia, WA 98504-1170 Sharon.Swanson@courts.wa.gov (360) 890-2549	Troy Niemeyer Finance Director 555 Israel Rd SW Tumwater, WA 98501 ttniemeyer@ci.tumwater.wa.us (360) 754-4130

X. ENTIRE AGREEMENT

This Agreement contains all the terms and conditions agreed upon by the Parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement are considered to exist or to bind any of the Parties to this agreement unless otherwise stated in this Agreement.

AGREED:**Administrative Office of the Courts**

Signature

Date

Christopher Stanley

Name

Chief Financial and Management Officer

Title

Signature

Date

Debbie Sullivan

Name

Mayor

*Title***Attest:**

Melody Valiant, City Clerk

Approve as to form:

Karen Kirkpatrick, City Attorney

TO: City Council
FROM: Bill Lindauer, Engineering Services Manager
DATE: July 18, 2023
SUBJECT: Deed of Easement for Slope Easement with Robert J. Scheller

1) Recommended Action:

Staff recommends the City Council approve and authorize the Mayor to sign the Deed of Easement for Slope Easement with Robert J. Scheller, which allows for construction of a guardrail along portions of Kimmie Street.

2) Background:

A new warehouse distribution center construction project at the Tumwater Corporate Park requires the installation of guardrail along portions of Kimmie Street to maintain vehicle safety. The guardrail has certain slope requirements that exceed the limits of existing right-of-way; therefore, an easement to construct and maintain the slope on adjacent private property is needed.

3) Policy Support:

Council Strategic Goals and Priorities 2023-2024:
C. Create and Maintain a Transportation System Safe for All Modes of Travel.

4) Alternatives:

- ☐ Deny the easement and require dedication of additional right-of-way to encompass the slope area.
-

5) Fiscal Notes:

Private developers will pay for and construct the guardrail.

6) Attachments:

- A. Deed of Easement for Slope Easement

Filed at the Request of
and to be Returned to:

Dickson Frohlich Phillips Burgess PLLC
Heather L. Burgess
111 21st Avenue SW
Olympia, Washington 98501

DEED OF EASEMENT FOR SLOPE EASEMENT

Grantor:	ROBERT J. SCHELLER, a single man
Grantees:	THE CITY OF TUMWATER, a Washington municipal corporation
Legal Description: (abbreviated)	S15 T17 R2W SW SW S230 Ft of W253 Ft Less Lathrop Rd on S, Less Kimmie Road on W
Assessor Tax Parcel ID Nos:	12715-33-0400
Reference No. of Related Document:	

THIS DEED OF EASEMENT FOR SLOPE EASEMENT (the “Agreement”) is made and entered into this ____ day of _____, 2023 (the “Effective Date”), by Robert J. Scheller, a single man (“Grantor”), to the City of Tumwater, a Washington municipal corporation (the “City”) (together, the “Parties”).

RECITALS

WHEREAS, Grantor is the owner of real property located in the City of Tumwater, Thurston County, Washington (the “Property”) and legally described as follows:

The South 230 feet of the West 253 feet of the Southwest quarter of the Southwest quarter, Section 15, Township 17 North, Rane 2 West, W.M.

EXCEPTING THEREFROM County Road known as Lathrop Road on the South, and

EXCEPTING THEREFROM County Road known as Kimmie Drive on the West.

SUBJECT TO any and all easements, restrictions, reservations, rights of way and zoning ordinances, if any, enforceable in law or equity.

WHEREAS, the Parties desire to establish easement rights pertaining to access for ingress and egress, construction of a slope (“Slope Easement” or “Easement”) on the terms and conditions contained in this Agreement.

NOW, THEREFORE, for valuable consideration of the mutual covenants and terms, conditions and restrictions hereinafter set forth, the receipt of which is hereby acknowledged, the Parties agree as follows:

AGREEMENT

1. Slope Easement Area. The Slope Easement Area is legally described in **Exhibit A** hereto and depicted on a survey map attached as **Exhibit B**.

2. Grant of Slope Easement. Grantor hereby gives, grants, bargains and conveys unto the City, its successors and assigns, which may include permitting and approvals by the City for development activity and improvements on or under the Property in support of the adjacent public street, roadway or sidewalk, in perpetuity, those rights-of-way, privileges, and easements described below. Furthermore, Grantor hereby grants unto City, its officers, employees, agents, representatives and contractors, the right for ingress and egress to use and occupy the Property for the purposes of constructing, reconstructing, maintaining, repairing, replacing, removing, grading, and excavating a slope of cuts and fills adjacent to public sidewalk easement or public street right-of-way, which shall include the right to use the area in accordance with generally accepted engineering practices, for excavating, sloping, cutting, filling, grading or otherwise changing the natural contours of the land in order to support and accommodate the adjacent public street, roadway, and for all other purposes for which the City is authorized by law to use said Slope Easement.

3. Improvements.

A. Upon completion of any construction work within the Slope Easement or adjacent street, roadway or sidewalk, the area subject to this Slope Easement will be graded, stabilized, and restored using conventional engineering and landscaping methods, by the person or entity doing the work in accordance with generally accepted engineering and landscape practices.

B. Grantor shall in all other respects remain the fee owner of the Property and area subject to this Agreement and may make all lawful uses of the Property not inconsistent with this Agreement and its terms and conditions; provided, there be no damage to the lateral and subjacent support of the public street and/or sidewalk or to any stormwater drainage facilities. Grantor shall not construct or maintain any buildings or other structures on the Slope Easement. Grantor may undertake any ordinary improvements to the landscaping of the Easement, provided that no trees or other plants shall be placed thereon, which would be unreasonably expensive or impractical for City to remove and restore.

4. **Term.** The term of this Agreement shall be perpetual unless terminated in writing by mutual agreement of the Parties.

5. **Run with the Land.** The benefits and burdens of the Slope Easement shall constitute a covenant running with the land herein described and shall be binding upon the heirs, successors in title and assigns of the Parties hereto. This Slope Easement shall be for the non-exclusive benefit and use of the Parties and any successor owners of the benefitted properties described herein, their heirs and assigns.

6. **Grantor Representation.** Grantor covenants that he is vested of the Property in fee simple and that Grantor will warrant and defend such title to the same against claims of all persons. This Slope Easement shall not divest the Grantor of any rights or interests in its Property not herein mentioned.

7. **Arbitration.** Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by arbitration with the rules, then obtaining, of the American Arbitration Association and judgment upon the award may be entered in any court having jurisdiction thereof. If said controversy or claim is referred to an attorney, the losing party shall pay the prevailing party's reasonable attorney fees and costs (including those on appeal). If such controversy arises and is later settled by the parties, such settlement shall include a specific allocation for disposition of attorney's fees on both sides.

8. **Severability.** If any term or condition of this Agreement is held to be invalid or unenforceable in any respect, such invalidity or unenforceability shall not affect any other provision included in the Agreement, and this Agreement shall be construed as if such invalid or unenforceable provision had never been contained in this Agreement.

9. **Waiver.** No delay in exercising any right or remedy provided for under this Agreement shall constitute a waiver thereof, and no waiver of the breach of any provision of this Agreement shall be construed as a waiver of preceding or succeeding breach of the same.

10. **Counterparts.** This Agreement may be executed in counterparts, each executed counterpart shall be deemed an original, and all counterparts together shall constitute one and the same Agreement.

11. **Compliance with Applicable Laws.** Parties agree to comply with applicable federal, state, and local regulations when undertaking any construction activities or use of the Slope Easement Area.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties have set their hands and seal the day and year first above written.

**GRANTOR:
SCHELLER**

By: _____
Robert J. Scheller

**GRANTEE:
CITY OF TUMWATER**

By: _____
Debbie Sullivan
Its: Mayor

APPROVED AS TO FORM:

By: _____
Karen Kirkpatrick
Its: City Attorney

STATE OF WASHINGTON)

) **SS:**

I certify that I know or have satisfactory evidence that Robert J. Scheller is the person who appeared before me and said person acknowledge that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.

DATED: this _____ day of _____, 2023.

(Signature)

(Print Name)

NOTARY PUBLIC in and for the State of
Washington, residing at _____

My appointment expires: _____

STATE OF WASHINGTON)

) SS.

I certify that I know of or have satisfactory evidence that Debbie Sullivan is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it as the Mayor of the City of Tumwater, a Washington municipal corporation, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: this _____ day of _____, 2023.

Print Name:

NOTARY PUBLIC in and for the State of
Washington residing at _____

My appointment expires _____

Exhibit A

Legal Description of Slope Easement Area

THAT PORTION OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 15, TOWNSHIP 17 NORTH, RANGE 2 WEST, W.M., THURSTON COUNTY, WASHINGTON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 15, MONUMENTED WITH A 3 INCH SURFACE BRASS DISK MARKED "T.C. S16/S15/S21/S22 T17N R2W" AT THE INTERSECTION OF 93RD AVENUE SOUTHWEST AND KIMMIE STREET SOUTHWEST;

THENCE SOUTH 88°21'35" EAST, ALONG THE CENTERLINE OF SAID 93RD AVENUE, BEING COINCIDENT WITH THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 15, A DISTANCE OF 30.00 FEET;

THENCE NORTH 01°45'57" EAST, 30.00 FEET TO THE INTERSECTION OF THE NORTH MARGIN OF SAID 93RD AVENUE WITH THE EAST MARGIN OF SAID KIMMIE STREET;

THENCE CONTINUING NORTH 01°45'57" EAST, 99.13 FEET TO THE TO THE MOST NORTHERLY POINT OF THAT PORTION DEDICATED FOR RIGHT-OF-WAY UNDER AFN 4904384, RECORDS OF THURSTON COUNTY, WASHINGTON AND BEING **POINT OF BEGINNING**;

THENCE CONTINUING ALONG THE EASTERLY MARGIN OF KIMMIE STREET SOUTHWEST NORTH 01°45'57" EAST, 15.72 FEET;

THENCE LEAVING SAID MARGIN SOUTH 10°46'27" EAST, 19.64 FEET TO A POINT OF CURVE TO THE RIGHT HAVING A RADIUS OF 1.00 FEET;

THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 06°51'10" FOR AN ARC LENGTH OF 0.12 FEET;

THENCE SOUTH 03°50'55" EAST, 15.22 FEET;

THENCE SOUTH 25°21'47" WEST, 5.83 TO THE EASTERLY MARGIN OF KIMMIE STREET SOUTHWEST PER SAID AFN 4904384;

THENCE ALONG SAID EASTERLY MARGIN NORTH 06°22'14" WEST, 24.30 FEET TO THE **POINT OF BEGINNING**.

CONTAINING 101 SQUARE FEET, MORE OR LESS.

05/10/2023



12519-slope easement
OBH
12519L.007.DOC
May 10, 2023

Exhibit A

Exhibit B

Survey Map Depicting Slope Easement Area

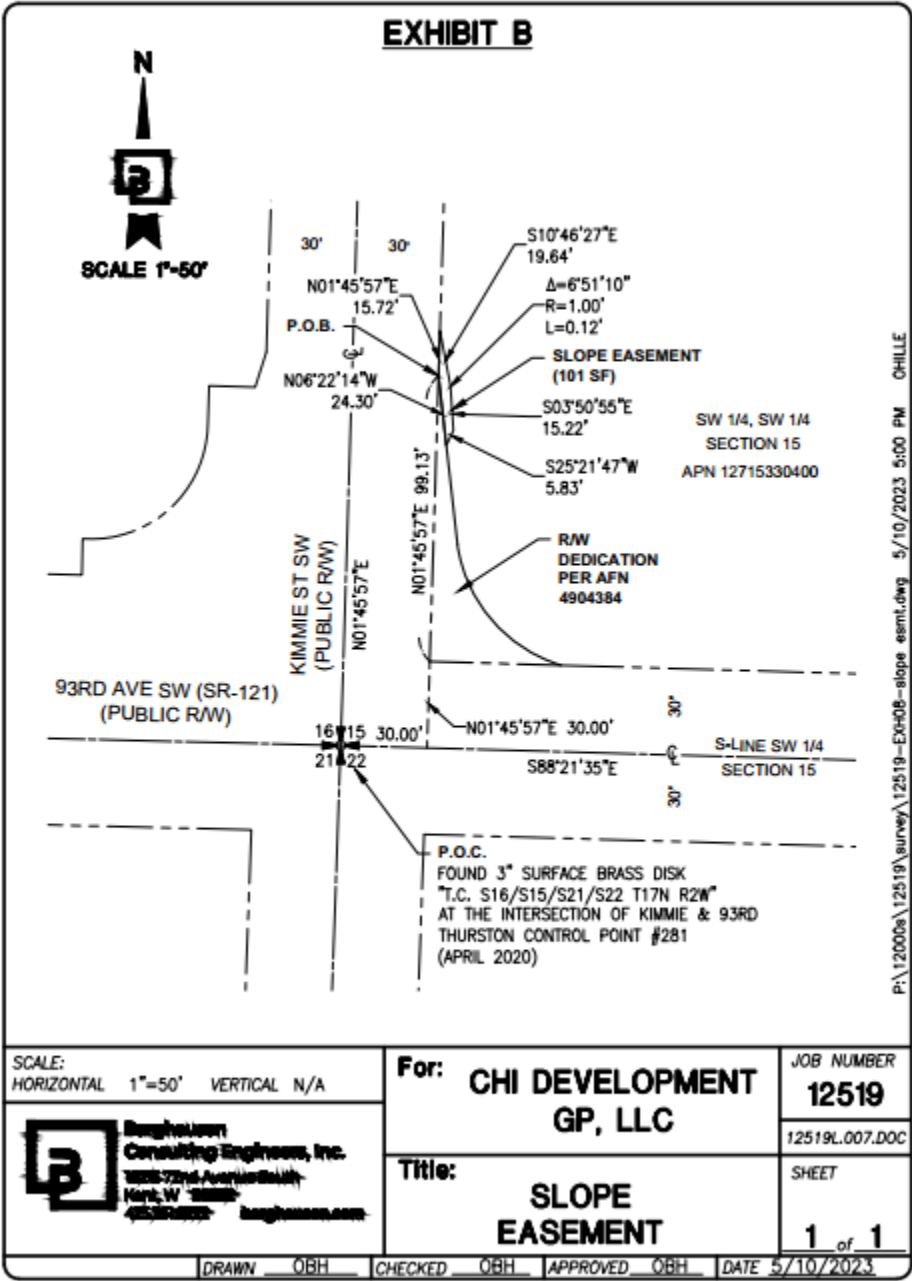


Exhibit B

TO: City Council
 FROM: Brad Medrud, Planning Manager
 DATE: July 18, 2023
 SUBJECT: Interlocal Agreement with Housing Authority of Thurston County for Affordable Senior Housing

1) Recommended Action:

Make a motion to authorize signature of the Interlocal Agreement with Housing Authority of Thurston County, in substantially similar form as approved by the City Attorney, in support of affordable senior housing in Tumwater.

2) Background:

At the December 13, 2022 Council Worksession, the City Council discussed allocation of the City's \$550,000 of ARPA housing funds. City Council assigned \$275,000 to the Franz Anderson Permanent Supportive Housing Project and agreed to reserve the other \$275,000 for a potential hotel conversion project in Tumwater. The City's ARPA funds were billed to other costs which allow the \$275,000 to originate from the City's General Fund.

At the January 24, 2023 City Council Worksession, the City Council supported a grant application from the Housing Authority of Thurston County to convert the Tumwater Inn and Suites to permanent affordable senior housing. The Housing Authority of Thurston County was successful in receiving the grant award from the Washington Department of Commerce. The City's match remains \$275,000.00. Tumwater's funds and will be used for testing and mitigation of asbestos, lead, and mold, and relocation costs for current residents as required by RCW 8.26. The City Council confirmed continued support of the project including relocation costs at the Council Worksession on June 13, 2023.

Craig Chance and Tom Rawson from the Thurston County Housing Authority will present the project to the City Council.

3) Policy Support:

Strategic Priority: Build a Community Recognized for Quality, Compassion and Humanity
 Goal: *"Work with government, non-profit, and private partners to develop and implement a performance-based plan for affordable housing and to address homelessness."*

4) Alternatives:

- ☐ Do not authorize signature of the agreement
 - ☐ Some other course of action
-

5) Fiscal Notes:

The City has \$275,000.00 in housing funds in the General Fund to support this project.

6) Attachments:

- A. Interlocal Agreement with Housing Authority of Thurston County for Affordable Senior Housing

**CITY OF TUMWATER
SERVICE PROVIDER AGREEMENT**

TUMWATER INN – AFFORDABLE SENIOR HOUSING

THIS AGREEMENT is made and entered into in duplicate this _____ day of _____, 20__, by and between the CITY OF TUMWATER, a Washington municipal corporation, hereinafter referred to as the “CITY”, and HOUSING AUTHORITY OF THURSTON COUNTY, a public body corporate and politic of the State of Washington, hereinafter referred to as the “SERVICE PROVIDER”.

WITNESSETH:

WHEREAS, the CITY desires to have certain services and/or tasks performed as set forth below requiring specialized skills and other supportive capabilities; and

WHEREAS, sufficient CITY resources are not available to provide such services; and

WHEREAS, the CITY has set a Strategic Priority to Build a Community Recognized for Quality, Compassion and Humanity with a goal of: “Work with government, non-profit, and private partners to develop and implement a performance-based plan for affordable housing and to address homelessness.”; and

WHEREAS, the CITY has determined it to be an equitable choice to support an affordable housing project in Tumwater, that would result in affordable long-term housing for seniors and serve as a public benefit; and

WHEREAS, the SERVICE PROVIDER represents that the SERVICE PROVIDER is qualified and possesses sufficient skills and the necessary capabilities, including technical expertise, where required, to perform the services and/or tasks set forth in this Agreement.

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performance contained herein, the parties hereto agree as follows:

1. SCOPE OF SERVICES.

The SERVICE PROVIDER shall perform such services and accomplish such tasks, including the furnishing of all materials and equipment necessary for full performance thereof, as are identified and designated as SERVICE PROVIDER responsibilities throughout this Agreement and as detailed in Exhibit “A” Scope of Services attached hereto and incorporated herein (the “Project”).

2. TERM.

The Project shall begin no earlier than June 1, 2023, and shall be completed no later than December 31, 2024. This Agreement may be extended for additional periods of time upon mutual written agreement of the parties.

3. TERMINATION.

Prior to the expiration of the Term, this Agreement may be terminated immediately, with or without cause, by the CITY.

4. COMPENSATION AND METHOD OF PAYMENT.

A. Payments for services provided hereunder shall be made following the performance of such services, unless otherwise permitted by law and approved in writing by the CITY.

B. No payment shall be made for any service rendered by the SERVICE PROVIDER except for services identified and set forth in this Agreement.

C. The CITY shall pay the SERVICE PROVIDER for work performed under this Agreement a total sum not to exceed TWO HUNDRED SEVENTY-FIVE THOUSAND DOLLARS (\$275,000.00) as reflected in Exhibit A to assist with reducing costs and provide affordable senior housing in Tumwater.

D. Upon execution of this Agreement, the SERVICE PROVIDER must submit IRS Form W-9 Request for Taxpayer Identification Number (TIN) and Certification unless a current Form W-9 is already on file with the CITY.

E. The SERVICE PROVIDER shall submit an invoice to the CITY for services rendered during the contract period. The CITY shall initiate authorization for payment after receipt of said invoice and shall make payment to the SERVICE PROVIDER within approximately thirty (30) days thereafter.

F. When subcontracting services or purchasing goods from third parties, as identified and approved in this Agreement, the SERVICE PROVIDER

must submit written documentation establishing that the goods and/or services have been provided and the third party has been paid in order to receive payment for such goods and/or services.

G. Invoices may be submitted immediately following performance of services, but in no event shall an invoice be submitted more than twenty (20) business days following the end of the contract term or the end of the calendar year, whichever is earlier.

5. INDEPENDENT CONTRACTOR RELATIONSHIP.

A. The parties intend that an independent contractor relationship will be created by this Agreement. Subject to paragraphs herein, the implementation of services pursuant to this Agreement will lie solely within the discretion of the SERVICE PROVIDER. No agent, employee, servant or representative of the SERVICE PROVIDER shall be deemed to be an employee, agent, servant or representative of the CITY for any purpose, and the employees of the SERVICE PROVIDER are not entitled to any of the benefits the CITY provides for its employees. The SERVICE PROVIDER will be solely and entirely responsible for its acts and for the acts of its agents, employees, servants, subcontractors or representatives during the performance of this Agreement.

B. In the performance of the services herein contemplated the SERVICE PROVIDER is an independent contractor with the authority to control and direct the performance of the details of the work; however, the results of the work contemplated herein must meet the approval of the CITY and shall be subject to the CITY'S general rights of inspection and review to secure the satisfactory completion thereof.

C. As an independent contractor, the SERVICE PROVIDER shall be responsible for the reporting and payment of all applicable local, state, and federal taxes.

D. It is recognized that the SERVICE PROVIDER may or will be performing services during the Term for other parties; provided, however, that such performance of other services shall not conflict with or interfere with the SERVICE PROVIDER'S ability to perform the services. The SERVICE PROVIDER agrees to resolve any such conflicts of interest in favor of the CITY.

6. SERVICE PROVIDER EMPLOYEES/AGENTS.

The CITY may at its sole discretion require the SERVICE PROVIDER to remove an employee, agent or servant from employment on this Project. The SERVICE PROVIDER may however employ that individual on other non-CITY related projects.

7. HOLD HARMLESS INDEMNIFICATION.

A. SERVICE PROVIDER Indemnification. The SERVICE PROVIDER agrees to indemnify, defend and hold the CITY, its elected officials, officers, employees, agents, and volunteers harmless from any and all claims, demands, losses, actions and liabilities (including costs and all attorney fees) to or by any and all persons or entities, including, without limitation, their respective agents, licensees, or representatives, arising from, resulting from, or connected with this Agreement to the extent caused by the negligent acts, errors or omissions of the SERVICE PROVIDER, its partners, shareholders, agents, employees, or by the SERVICE PROVIDER'S breach of this Agreement. The SERVICE PROVIDER expressly waives any immunity that may be granted to it under the Washington State Industrial Insurance Act, Title 51 RCW. The SERVICE PROVIDER'S indemnification shall not be limited in any way by any limitation on the amount of damages, compensation or benefits payable to or by any third party under workers' compensation acts, disability benefit acts or any other benefit acts or programs. This waiver has been mutually negotiated by the parties.

B. CITY Indemnification. The CITY agrees to indemnify, defend and hold the SERVICE PROVIDER, its officers, directors, shareholders, partners, employees, and agents harmless from any and all claims, demands, losses, actions and liabilities (including costs and attorney fees) to or by any and all persons or entities, including without limitation, their respective agents, licensees, or representatives, arising from, resulting from or connected with this Agreement to the extent solely caused by the negligent acts, errors, or omissions of the CITY, its employees or agents. No liability shall attach to the CITY by reason of entering into this Agreement except as expressly provided herein.

C. Survival. The provisions of this Section shall survive the expiration or termination of this Agreement with respect to any event occurring prior to such expiration or termination.

8. INSURANCE.

A. The SERVICE PROVIDER shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the SERVICE PROVIDER, their agents, representatives, employees or subcontractors.

B. The SERVICE PROVIDER shall provide a Certificate of Insurance evidencing:

1. Automobile Liability insurance with limits no less than \$1,000,000 combined single limit per accident for bodily injury and property damage.

2. Commercial General Liability insurance written on an occurrence basis with limits no less than \$2,000,000 combined single limit per occurrence and \$2,000,000 aggregate for personal injury, bodily injury and property damage. Coverage shall include but not be limited to: blanket contractual; products/completed operations; broad form property damage; explosion, collapse and underground (XCU) if applicable; and employer's liability.

3. Professional Liability insurance written on a claims made basis with limits of no less than \$2,000,000 per claim, and \$2,000,000 policy aggregate limit.

C. The CITY shall be named as an additional insured on the insurance policy, as respect to work performed by or on behalf of the SERVICE PROVIDER and a copy of the endorsement naming the CITY as additional insured shall be attached to the Certificate of Insurance. The CITY reserves the right to request certified copies of any required policies.

D. The SERVICE PROVIDER'S insurance shall contain a clause stating that coverage shall apply separately to each insured against whom claim is made or suit is brought, except with respects to the limits of the insurer's liability.

E. Any payment of deductible or self-insured retention shall be the sole responsibility of the SERVICE PROVIDER.

F. The SERVICE PROVIDER'S insurance shall be primary insurance as respect to the CITY and the CITY shall be given written notice of any cancellation, suspension or material change in coverage within two (2) business days of SERVICE PROVIDER'S receipt of such notice.

9. TREATMENT OF ASSETS.

Title to all property furnished by the CITY shall remain in the name of the CITY and the CITY shall become the owner of the work product and other documents, if any, prepared by the SERVICE PROVIDER pursuant to this Agreement.

10. COMPLIANCE WITH LAWS.

A. The SERVICE PROVIDER, in the performance of this

Agreement, shall comply with all applicable federal, state or local laws and ordinances, including being licensed to do business in the City of Tumwater by obtaining a Tumwater business license and any additional regulations for licensing, certification and operation of facilities, programs and accreditation, and licensing of individuals, and any other standards or criteria as described in this Agreement to assure quality of services.

B. The SERVICE PROVIDER specifically agrees to pay any applicable CITY business and occupation (B&O) taxes which may be due on account of this Agreement.

11. NONDISCRIMINATION.

A. The CITY is an equal opportunity employer.

B. Nondiscrimination in Employment. In the performance of this Agreement, the SERVICE PROVIDER will not discriminate against any employee or applicant for employment on the grounds of race, creed, religion, color, national origin, citizenship or immigration status, families with children status, sex, marital status, honorably discharged veteran or military status, the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability, sexual orientation, genetic information, age or other basis prohibited by state or federal law; provided that the prohibition against discrimination in employment because of disability shall not apply if the particular disability prevents the proper performance of the particular worker involved. Such action shall include, but not be limited to: employment, upgrading, demotion or transfers, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and programs for training including apprenticeships. "Race" is inclusive of traits historically associated or perceived to be associated with race including, but not limited to, hair texture and protective hairstyles. For purposes of this subsection, "protective hairstyles" includes, but is not limited to, such hairstyles as afros, braids, locks, and twists. It is not an unfair practice when a distinction or differential treatment on the basis of citizenship or immigration status is authorized by federal or state law, regulation, rule or government contract.

C. Nondiscrimination in Services. The SERVICE PROVIDER will not discriminate against any recipient of any services or benefits provided for in this Agreement on the grounds of race, creed, religion, color, national origin, citizenship or immigration status, families with children status, sex, marital status, honorably discharged veteran or military status, the presence of any sensory, mental or physical disability or the use of a trained dog guide or service animal by a person with a disability, sexual orientation, genetic information, age or other basis prohibited by state or federal law. "Race" is inclusive of traits historically associated

or perceived to be associated with race including, but not limited to, hair texture and protective hairstyles. For purposes of this subsection, "protective hairstyles" includes, but is not limited to, such hairstyles as afros, braids, locks, and twists. It is not an unfair practice when a distinction or differential treatment on the basis of citizenship or immigration status is authorized by federal or state law, regulation, rule or government contract.

D. If any assignment and/or subcontract have been authorized by the CITY, said assignment or subcontract shall include appropriate safeguards against discrimination. The SERVICE PROVIDER shall take such action as may be required to ensure full compliance with the provisions in the immediately preceding paragraphs herein.

E. Nondiscrimination in Benefits. Pursuant to Tumwater Municipal Code (TMC) Chapter 3.46, the SERVICE PROVIDER shall provide employee benefits or an equivalent sum to the domestic partners of their employees involved in the SERVICE PROVIDER'S operations applicable to this Agreement if such benefits are provided to employees' spouses as more particularly set forth in Chapter 3.46 of the TMC, a copy of which is attached hereto as Exhibit "B".

12. ASSIGNMENT/SUBCONTRACTING.

A. The SERVICE PROVIDER shall not assign its performance under this Agreement or any portion of this Agreement without the written consent of the CITY, and it is further agreed that said consent must be sought in writing by the SERVICE PROVIDER not less than thirty (30) days prior to the date of any proposed assignment. The CITY reserves the right to reject without cause any such assignment.

B. Any work or services assigned hereunder shall be subject to each provision of this Agreement and proper bidding procedures where applicable as set forth in local, state and/or federal statutes, ordinances and guidelines.

C. Any technical service subcontract not listed in this Agreement, must have express advance approval by the CITY.

13. NON-APPROPRIATION OF FUNDS.

If sufficient funds are not appropriated or allocated for payment under this Agreement for any future fiscal period, the CITY will not be obligated to make payments for services or amounts incurred after the end of the current fiscal period, and this Agreement will terminate upon the completion of all remaining services for which funds are allocated. No penalty or expense shall accrue to the CITY in the event this provision applies.

14. CHANGES.

Either party may request changes to the Scope of Services and performance to be provided hereunder, however, no change or addition to this Agreement shall be valid or binding upon either party unless such change or addition be in writing and signed by both parties. Such amendments shall be attached to and made part of this Agreement.

15. MAINTENANCE AND INSPECTION OF RECORDS.

A. The SERVICE PROVIDER at such times and in such forms as the CITY may require, shall furnish to the CITY such statements, records, reports, data, and information as the CITY may request pertaining to matters covered by this Agreement.

B. The SERVICE PROVIDER shall maintain books, records and documents, which sufficiently and properly reflect all direct and indirect costs related to the performance of this Agreement and shall maintain such accounting procedures and practices as may be necessary to assure proper accounting of all funds paid pursuant to this Agreement. These records shall be subject at all reasonable times to inspection, review, or audit, by the CITY, its authorized representative, the State Auditor, or other governmental officials authorized by law to monitor this Agreement.

C. To ensure the CITY'S compliance with the Public Records Act, RCW 42.56, the SERVICE PROVIDER shall retain all books, records, documents and other material relevant to this agreement, for six (6) years after its expiration. The SERVICE PROVIDER agrees that the CITY or its designee shall have full access and right to examine any of said materials at all reasonable times during said period.

16. POLITICAL ACTIVITY PROHIBITED.

None of the funds, materials, property or services provided directly or indirectly under the Agreement shall be used for any partisan political activity, or to further the election or defeat of any candidate for public office.

17. PROHIBITED INTEREST.

No member, officer, or employee of the CITY shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

18. NOTICE.

Notice provided for in this Agreement shall be sent by certified mail to the addresses designated for the parties on the signature page of this Agreement.

19. ATTORNEYS FEES AND COSTS.

If any legal proceeding is brought for the enforcement of this Agreement, or because of a dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, the prevailing party shall be entitled to recover from the other party, in addition to any other relief to which such party may be entitled, reasonable attorney's fees and other costs incurred in that action or proceeding.

20. JURISDICTION AND VENUE.

A. This Agreement has been and shall be construed as having been made and delivered within the State of Washington. It is agreed by each party hereto that this Agreement shall be governed by laws of the State of Washington, both as to interpretation and performance.

B. Any action of law, suit in equity, or judicial proceeding for the enforcement of this Agreement or any provisions thereof shall be instituted and maintained in the superior court of Thurston County, Washington, or in the superior court of either of the two nearest judicial districts as determined pursuant to RCW 36.01.050.

21. SEVERABILITY.

A. If, for any reason, any part, term or provision of this Agreement is held by a court of the United States to be illegal, void or unenforceable, the validity of the remaining provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.

B. If it should appear that any provision hereof is in conflict with any statutory provision of the State of Washington, said provision which may conflict therewith shall be deemed inoperative and null and void insofar as it may be in conflict therewith, and shall be deemed modified to conform to such statutory provisions.

22. ENTIRE AGREEMENT.

The parties agree that this Agreement is the complete expression of the terms hereto and any oral representations or understandings not incorporated herein are excluded. Further, any modification of this Agreement shall be in writing and signed by both parties. Failure to comply with any of the provisions stated herein shall constitute material breach of contract and cause for termination. Both parties recognize time is of the essence in the performance of the provisions of this Agreement. It is also agreed by the parties that the forgiveness of the nonperformance of any provision of this Agreement does not constitute a waiver of the provisions of this Agreement. This Agreement may be executed in any number of counterparts, which counterparts shall collectively constitute the entire Agreement.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed the day and year first hereinabove written.

CITY:

CITY OF TUMWATER
555 Israel Road SW
Tumwater, WA 98501

APPROVED AS TO FORM:

Debbie Sullivan
Mayor

Karen Kirkpatrick
City Attorney

ATTEST:

Melody Valiant
City Clerk

SERVICE PROVIDER:

HOUSING AUTHORITY OF THURSTON COUNTY

PO Box 1638

Olympia WA 98507-1638

UBI No. 601 094 924

Tax ID No. 91-1429278

Phone: (360)753-8292

Signature (Notarized – see below)

Printed Name: Craig Chance

Title: Executive Director

STATE OF WASHINGTON

COUNTY OF THURSTON

I certify that I know or have satisfactory evidence that _____(name)
is the person who appeared before me, and said person acknowledged that (he/she)
signed this instrument, on oath stated that (he/she) was authorized to execute the
instrument and acknowledged it as the _____(title) of
_____(company) to be the free and
voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated:_____

Notary Public in and for the State of Washington,

My appointment expires:_____



Housing Authority of Thurston County
 Mailing: PO Box 1638, Olympia, WA 98507
 Physical: 1206 12th Avenue SE, Olympia, WA 98501
 Tel: (360) 753-8292 Fax: (360) 586-0038

www.hatc.org

Tumwater Inn Acquisition and Renovation

Scope of Services

Background

The Housing Authority of Thurston County (HATC) entered an agreement to purchase the Tumwater Inn and Suites on January 10, 2023. An application for Rapid Capital Housing Acquisition Round II under NOFA #MHU-2022-06 was submitted on January 12, 2023 to Washington State Department of Commerce to acquire and renovate the Tumwater Inn at 5895 Capital Blvd SW and 111 SW West T Street in Tumwater, Washington. The application required a match commitment of 5% in order to be successful and the City of Tumwater agreed to provide \$275,000 to help the HATC meet the match requirement.

The HATC application was accepted and was eventually awarded \$7,900,000 of Rapid Capital Housing Acquisition funds. The total project is budgeted to cost \$8,492,850 for acquisition and renovation to bring the property up to current codes and provide 24 affordable permanent housing units for our senior neighbors that are at or below 50% of Area Median Income (AMI). Half of the unit will be priced to be affordable at 30% of AMI and half at 50% of AMI. See attached budget for Tumwater Inn (*Attachment 1 to Exhibit A*).

Scope of Service

In accordance with the condition of the NOFA, any pre-development and relocation costs are not considered eligible activities. As a result, the matching funds provided by the City of Tumwater are budgeted to the following activities:

Activity	Total
Asbestos, Lead, Mold and Meth testing and mitigation	\$ 75,000
Relocation	\$ 200,000
Total	\$ 275,000

As the project progresses, the HATC will work closely with the Department of Commerce for funding and project oversight.

Housing Authority of Thurston County is required to comply with RCW 8.26 – Relocation Assistance-Real Property Acquisition Policy.

Form 6: Development Budgets**Project Name:** Tumwater Inn**Date of Budget**

% Total Project Cost	Total Project Cost	Residential total	RESIDENTIAL						non-residential total	NON-RESIDENTIAL	
			Source:	Source:	Source:	Source:	Source:	Source:		Source:	Source:
			Commerce	HATC	City of Tumwater						

Acquisition Costs:

Land	0%		\$ -							\$ -		
Existing Structures	57%	\$ 4,800,000	\$ 4,800,000	\$ 4,800,000						\$ -		
Liens	0%		\$ -							\$ -		
Closing, Title & Recording Costs	0%	\$ 25,000	\$ 25,000		\$ 25,000					\$ -		
Extension payment	0%		\$ -							\$ -		
Other: <input type="text"/>	0%		\$ -							\$ -		
SUBTOTAL	57%	\$ 4,825,000	\$ 4,825,000	\$ 4,800,000	\$ 25,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

Construction:

Demolition	2%	\$ 179,380	\$ 179,380	\$ 179,380						\$ -		
New Building	0%		\$ -							\$ -		
Rehabilitation	29%	\$ 2,447,394	\$ 2,447,394	\$ 2,447,394						\$ -		
Contractor Profit	3%	\$ 236,677	\$ 236,677	\$ 236,677						\$ -		
Contractor Overhead	1%	\$ 43,549	\$ 43,549	\$ 43,549						\$ -		
New Construction Contingency	0%		\$ -							\$ -		
Rehab Contingency	2%	\$ 132,350	\$ 132,350	\$ 132,350						\$ -		
Accessory Building	0%		\$ -							\$ -		
Site Work / Infrastructure	0%		\$ -							\$ -		
Off site Infrastructure	0%		\$ -							\$ -		
Environmental Abatement - Building	0%		\$ -							\$ -		
Environmental Abatement - Land	0%		\$ -							\$ -		
Sales Tax	0%		\$ -							\$ -		
Bond Premium	0%		\$ -							\$ -		
Equipment and Furnishings	0%		\$ -							\$ -		
Other: <input type="text"/>	0%		\$ -							\$ -		
SUBTOTAL	36%	\$ 3,039,350	\$ 3,039,350	\$ 3,039,350	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

Form 6: Development Budgets

Project Name: Tumwater Inn

Date of Budget

% Total Project Cost	Total Project Cost	Residential total	RESIDENTIAL						non-residential total	NON-RESIDENTIAL	
			Source:	Source:	Source:	Source:	Source:	Source:		Source:	Source:
			Commerce	HATC	City of Tumwater						

Soft Costs:

Buyer's Appraisal	0%	\$ 2,000	\$ 2,000		\$ 2,000					\$ -		
Market Study	0%		\$ -							\$ -		
Architect	1%	\$ 125,000	\$ 125,000	\$ 60,650	\$ 64,350					\$ -		
Engineering	0%	\$ 25,000	\$ 25,000		\$ 25,000					\$ -		
Environmental Assessment	0%	\$ 2,000	\$ 2,000		\$ 2,000					\$ -		
Geotechnical Study	0%		\$ -							\$ -		
Boundary & Topographic Survey	0%	\$ 8,500	\$ 8,500		\$ 8,500					\$ -		
Legal - Real Estate	0%		\$ -							\$ -		
Developer Fee	0%		\$ -							\$ -		
Project Management / Dev. Consultant Fees	0%		\$ -							\$ -		
Other Consultants	0%		\$ -							\$ -		
Soft Cost Contingency	0%	\$ 25,000	\$ 25,000		\$ 25,000					\$ -		
Other: Asbestos, Lead, Mold and Meth testing and	2%	\$ 150,000	\$ 150,000		\$ 75,000	\$ 75,000				\$ -		
SUBTOTAL	4%	\$ 337,500	\$ 337,500	\$ 60,650	\$ 201,850	\$ 75,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

Pre-Development / Bridge Financing

Bridge Loan Fees	0%		\$ -							\$ -		
Bridge Loan Interest	0%		\$ -							\$ -		
SUBTOTAL	0%	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

Construction Financing

Construction Loan Fees	0%		\$ -							\$ -		
Construction Loan Expenses	0%		\$ -							\$ -		
Construction Loan Legal	0%		\$ -							\$ -		
Construction Period Interest	0%		\$ -							\$ -		
Lease-up Period Interest	0%		\$ -							\$ -		
SUBTOTAL	0%	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

Form 6: Development Budgets

Project Name: Tumwater Inn

Date of Budget

% Total Project Cost	Total Project Cost	Residential total	RESIDENTIAL						non-residential total	NON-RESIDENTIAL	
			Source:	Source:	Source:	Source:	Source:	Source:		Source:	Source:
			Commerce	HATC	City of Tumwater						

Permanent Financing

Permanent Loan Fees	0%		\$ -							\$ -		
Permanent Loan Expenses	0%		\$ -							\$ -		
Permanent Loan Legal	0%		\$ -							\$ -		
LIHTC Fees	0%		\$ -							\$ -		
LIHTC Legal	0%		\$ -							\$ -		
LIHTC Owners Title Policy	0%		\$ -							\$ -		
State HTF Fees	0%		\$ -							\$ -		
Other: <input type="text"/>	0%		\$ -							\$ -		
SUBTOTAL	0%	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

Capitalized Reserves

Operating Reserves	0%		\$ -							\$ -		
Replacement Reserves	0%		\$ -							\$ -		
Other: <input type="text"/>	0%		\$ -							\$ -		
SUBTOTAL	0%	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

Other Development Costs

Real Estate Tax	0%		\$ -							\$ -		
Insurance	0%		\$ -							\$ -		
Relocation (from Form 4)	3%	\$ 264,000	\$ 264,000		\$ 64,000	\$ 200,000				\$ -		
Bidding Costs	0%	\$ 2,000	\$ 2,000		\$ 2,000					\$ -		
Permits, Fees & Hookups	0%	\$ 25,000	\$ 25,000		\$ 25,000					\$ -		
Impact/Mitigation Fees	0%		\$ -							\$ -		
Development Period Utilities	0%		\$ -							\$ -		
Nonprofit Donation	0%		\$ -							\$ -		
Accounting/Audit	0%		\$ -							\$ -		
3 rd Party Certification of final development cost			\$ -							\$ -		
Marketing/Leasing Expenses	0%		\$ -							\$ -		
Carrying Costs at Rent up/Lease Up Reserve	0%		\$ -							\$ -		
SUBTOTAL	3%	\$ 291,000	\$ 291,000	\$ -	\$ 91,000	\$ 200,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

Form 6: Development Budgets

Project Name: Tumwater Inn

Date of Budget

% Total Project Cost	Total Project Cost	Residential total	RESIDENTIAL						non-residential total	NON-RESIDENTIAL	
			Source:	Source:	Source:	Source:	Source:	Source:		Source:	Source:
			Commerce	HATC	City of Tumwater						

Bond Related Costs of Issuance (4% Tax Credit/Bond Projects Only)

Issuer Fees & Related Expenses	0%		\$ -							\$ -		
Bond Counsel	0%		\$ -							\$ -		
Trustee Fees & Expenses	0%		\$ -							\$ -		
Underwriter Fees & Counsel	0%		\$ -							\$ -		
Placement Agent Fees & Counsel	0%		\$ -							\$ -		
Borrower's Counsel - Bond Related	0%		\$ -							\$ -		
Rating Agency	0%		\$ -							\$ -		
SUBTOTAL	0%	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total Development Cost:		\$ 8,492,850	\$ 8,492,850							\$ -		
Total Sources:		\$ 8,492,850	\$ 8,492,850	\$ 7,900,000	\$ 317,850	\$ 275,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

Chapter 3.46

CITY CONTRACTS – NONDISCRIMINATION IN BENEFITS

Sections:

- 3.46.010 Definitions.
- 3.46.020 Nondiscrimination in benefits.
- 3.46.030 Limitations.
- 3.46.040 Powers and duties of the city administrator.
- 3.46.050 Appeals.
- 3.46.060 Effective date.

3.46.010 Definitions.

For the purpose of this chapter:

- A. “Contract” means a contract for public works, consulting, or supplies, material, equipment or services estimated to cost \$50,000 or more;
- B. “Contract awarding authority” means the city officer, department, commission, employee, or board authorized to enter into or to administer contracts on behalf of the city;
- C. “Domestic partner” means any person who is registered with his/her employer as a domestic partner or, in the absence of such employer-provided registry, is registered as a domestic partner with a governmental body pursuant to state or local law authorizing such registration. Any internal employer registry of domestic partnership must comply with criteria for domestic partnerships specified by rule by the city administrator;
- D. “Employee benefits” means the provision of bereavement leave; disability, life, and other types of insurance; family medical leave; health benefits; membership or membership discounts; moving expenses; pension and retirement benefits; vacation; travel benefits; and any other benefits given to employees; provided, that it does not include benefits to the extent that the application of the requirements of this chapter to such benefits may be preempted by federal or state law.

(Ord. O2000-028, Added, 02/06/2001)

3.46.020 Nondiscrimination in benefits.

A. No contractor on a city contract shall discriminate in the provision of employee benefits between an employee with a domestic partner and an employee with a spouse. The contractor shall not be deemed to discriminate in the provision of employee benefits if, despite taking reasonable measures to do so, the contractor is unable to extend a particular employee benefit to domestic partners, so long as the contractor provides the employee with a cash equivalent.

B. Other Options for Compliance Allowed. Provided that a contractor does not discriminate in the provision of benefits between employees with spouses and employees with domestic partners, a contractor may:

1. Elect to provide benefits to individuals in addition to employees' spouses and employees' domestic partners;
2. Allow each employee to designate a legally domiciled member of the employee's household as being eligible for spousal equivalent benefits; or
3. Provide benefits neither to employees' spouses nor to employees' domestic partners.

C. Requirements Inapplicable Under Certain Conditions. The city administrator may waive the requirements of this chapter where:

1. Award of a contract or amendment is necessary to respond to an emergency;
2. The contractor is a sole source;
3. No compliant contractors are capable of providing goods or services that respond to the city's requirements;
4. The contractor is a public entity;
5. The requirements are inconsistent with a grant, subvention or agreement with a public agency;
6. The city is purchasing through a cooperative or joint purchasing agreement.

D. Requests for waivers of the terms of this chapter are to be made to the city administrator by the contract awarding authority. Decisions by the city administrator to issue or deny waivers are final unless appealed pursuant to TMC 3.46.050.

E. The city administrator shall reject an entity's bid or proposal, or terminate a contract, if the city administrator determines that the entity was set up, or is being used, for the purpose of evading the intent of this chapter.

F. No contract awarding authority shall execute a contract with a contractor unless such contractor has agreed that the contractor will not discriminate in the provision of employee benefits as provided for in this chapter.

G. All contracts awarded by the city shall contain provisions prohibiting discrimination in the provision of employee benefits, including provisions containing appropriate remedies for the breach thereof as prescribed by this chapter, except as exempted by this chapter or rule.

(Ord. O2000-028, Added, 02/06/2001)

3.46.030 Limitations.

The requirements of this chapter only shall apply to those portions of a contractor's operations that occur:

- A. Within the city;
- B. On real property outside of the city if the property is owned by the city or if the city has a right to occupy the property, and if the contractor's presence at that location is connected to a contract with the city; and
- C. Elsewhere in the United States where work related to a city contract is being performed. The requirements of this chapter shall not apply to subcontracts or subcontractors of any contract or contractor.

(Ord. O2000-028, Added, 02/06/2001)

3.46.040 Powers and duties of the city administrator.

The city administrator shall have the power to:

- A. Adopt rules and regulations in accordance with this chapter establishing standards and procedures for effectively carrying out this chapter;
- B. Determine and impose appropriate sanctions and/or liquidated damages for violation of this chapter by contractors including, but not limited to:
 - 1. Disqualification of the contractor from bidding on or being awarded a city contract for a period of up to five years; and
 - 2. Contractual remedies, including, but not limited to, liquidated damages and termination of the contract;
- C. Examine contractor's benefit programs covered by this chapter;
- D. Impose other appropriate contractual and civil remedies and sanctions for violations of this chapter;
- E. Allow for remedial action after a finding of noncompliance, as specified by rule;
- F. Perform such other duties as may be required by ordinance or which are necessary to implement the purposes of this chapter.

(Ord. O2000-028, Added, 02/06/2001)

3.46.050 Appeals.

Any aggrieved party may appeal a decision of the city administrator to the mayor by the submittal of a written request to the city attorney within ten working days of the decision to be appealed. The mayor's decision will be in writing with findings identified upon which the decision was made. Subsequent appeal will be to the Thurston County superior court.

(Ord. O2000-028, Added, 02/06/2001)

3.46.060 Effective date.

The provisions of this chapter shall apply to any contract awarded on or after January 2, 2002.

(Ord. O2000-028, Added, 02/06/2001)